Parliament of Australia
Department of Parliamentary Services

Parliamentary Library
Information analysis and advice for the Parliament

BILLS DIGEST

30 November 2006, no. 60, 2006–07, ISSN 1328-8091

Anti-Money Laundering and Counter-Terrorism Financing Bill 2006

Sue Harris Rimmer and Bronwen Jaggers
Law and Bills Digest Section

Contents

Anti-Money Laundering and Counter-Terrorism Financing Bill 2006

Date introduced: 24 October 2006

House: House of Representatives

Portfolio: Justice and Customs

Commencement: The commencement of the Bill is staggered over 24 months.

Parts 1, 4, 5, 6, 9, 10 to 18 and Schedule 1 commence the day after the Bill receives Royal Assent.

Part 3 Division 5, Part 8, and Part 10 Division 6 commence 6 months from the day after Royal Assent.

Part 2, excluding Division 6, Part 7, Part 10 Division 3, and Part 10 Division 5 commence within 12 months of the day after Royal Assent.

Part 2 Division 6 and Part 3 Divisions 1, 2, 3, 4 and 6 commence within 24 months from the day after Royal Assent.

Purpose

The Explanatory Memorandum states that the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006 ('the Bill') is aimed at addressing the issue of money laundering in Australia which is estimated to have a value of approximately $11.5 billion in per year. The additional concern is the threat to national security posed by the financing of terrorism.

The Bill also seeks to implement Australia's international obligations including a commitment to bring the Australian legislation in line with the international standards as set out by the Financial Action Taskforce on Money Laundering (FATF).

When introducing the Bill, Attorney-General, The Hon Philip Ruddock stated:

> The primary purpose of the legislative package is to ensure Australia has a financial sector that is hostile to criminal activity and terrorism.[1]

The Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Bill 2006 ('the Transitional Bill') primarily replaces the secrecy and access provisions in the *Financial Transaction Reports Act 1988* (FTR Act) and permits the parallel operation of both the FTR Act and Anti-Money Laundering and Counter-Terrorism Financing Bill. The Transitional Bill will limit the application of the FTR Act to cash dealers who are not reporting entities under the Anti-Money Laundering and Counter-Terrorism Bill.

Background

The Bill passed through the House of Representatives on 28 November 2006 with limited debate and is listed for debate in the Senate during the final sittings.

The Explanatory Memorandum for the Bill was replaced and then a correction to the Explanatory Memorandum was issued dealing with the strict liability provisions. A substantive set of corrections was also issued for the Explanatory Memorandum to the Transitional Bill.

Due to these developments, in order to produce the Digest in time for the Senate debate, the Bill will focus on key themes, directing readers to further resources about the Bill and providing a summary of the main changes made by the Bills:

- the new AML/CTF regime, and
- the expansion of AUSTRAC's powers.

All references to the Explanatory Memorandum in this Digest are to the final version of the amended Explanatory Memoranda as at 29 November 2006.

Basis of policy commitment

Australia's principal anti-money-laundering legislation is the *Financial Transactions Act 1988* which is administered by Australian Transaction Reports and Analysis Centre (AUSTRAC).

The FTR Act requires the identification of persons opening or becoming a signatory to an account with a 'cash dealer'. It also requires reporting of certain transactions and transfers and creates certain record-keeping obligations. The purpose of the FTR Act is to reduce the incidence and facilitate the tracking of money laundering and terrorist financing.

The Federal Government is currently considering a range of other reforms which are designed to improve and strengthen Australia's anti-money laundering (AML) and counter-terrorism financing (CTF) system, in line with international standards issued by the Financial Action Task Force on Money Laundering (FATF).

The Financial Action Task Force is an international organisation chiefly concerned with strengthening anti-money-laundering provisions in the global financial system, including through individual countries implementing appropriate legislative and enforcement measures. To this end it developed a series of 40 AML recommendations in 1990, which have been revised twice since. In the aftermath of the 11 September 2001 attacks, it also adopted nine special recommendations for combating the financing of terrorism. New Zealand, Fiji and other Pacific nations participate with Australia in the Asia/Pacific Group on Money-Laundering established in February 1997.

On 8 December 2003 the Minister for Justice and Customs issued a media release that announced a review of Australia's AML/CTF policy and regulation:

> "…the Government will now proceed with a fundamental overhaul of Australian legislation, including the Financial Transaction Reports Act 1988, which will balance effective regulation and a sensible approach to the impact of the new laws on industry and small business… Australia will now commit to implementing FATF's revised 40 Recommendations which will require a significant review of Australia's anti-money laundering regime, including some new measures intended to counter terrorist financing," Senator Ellison said."

The Australian consultative process has been protracted, with industry groups raising concerns such as compliance costs and competitive neutrality between different sectors.

The Government has split the implementation of the scheme into a number of different legislative parts:

- *Proceeds of Crime (Consequential Amendments and Transitional Provisions) Act 2002*
- *Suppression of the Financing of Terrorism Act 2002*
- Schedule 9 of the *Anti-Terrorism Act (No. 2) 2005*
- Financial Transactions Reports Amendment Bill 2006 (Bills Digest) (passed Senate) On 22 June 2006, the Senate referred the Bill to the Senate Legal and Constitutional Legislation Committee for inquiry and report by 1 August 2006. The Senate Committee Inquiry received seven submissions, some of which raised a number of concerns in relation to the changes proposed in the Bill.

The Commonwealth is currently in consultation with the States and Territories about the enactment of laws to address a fourth FATF CFT special recommendation, that of preventing the use of non-profit or charitable organisations for the financing of terrorism.

On 9 February 2006, the Senate referred the Exposure Draft of the Anti-Money Laundering and Counter-Terrorism Financing Bill 2005 to the Senate Legal and Constitutional Legislation Committee for inquiry and report by 13 April 2006.

The Attorney-General's Department also conducted a public consultation process in relation to the Exposure Draft of the Bill and the Rules. The Exposure Draft of the Bill and associated documentation is available on the Attorney-General's Department's website at www.ag.gov.au/aml.

On 8 November 2006, the Senate referred the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006 and the Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Bill 2006 to the Legal and Constitutional Affairs Committee for inquiry and report by 28 November 2006.

The Committee recommended that the Bill be passed subject to thirteen recommendations, which dealt mainly with consultation, delayed commencement times and privacy concerns.

Financial implications

The Explanatory Memorandum states that:

> It is not possible to estimate the cost of preventing, detecting and deterring money laundering and terrorist financing. It is also not possible to quantify accurately the extent of money laundering and terrorism financing in Australia as the very nature of these activities mean that they are hidden.[2]

However, the Government refers to the International Monetary Fund estimate from 1996 that the aggregate size of money laundering in the world could be somewhere between two and five per cent of the world's gross domestic product, and estimates that 'for the Australian economy this is as much as $11.5 billion per year'.[3]

The Regulatory Impact Statement (RIS) refers to a significant increase in the available intelligence on money laundering and terrorism financing, as well as improving systems for sharing of information between domestic and foreign law enforcement agencies.

The RIS also refers to the 1995 AUSTRAC report 'Estimates of the Extent of Money Laundering In and Throughout Australia' by John Walker Consulting Services. This study also highlights the difficulties in reaching conclusive results but provided an estimate of the extent of money laundering to be $3.5 billion, up to an estimated $4.5 billion.

The RIS also notes that it is 'perhaps even more problematic to accurately quantify the benefit of stopping a terrorism attack'.

On introducing the Bill, the Attorney-General stated that initial funding of $1.8 million over four years has been provided to the Office of the Privacy Commissioner for the purpose of assisting small businesses with compliance. The Attorney-General announced that the Government is committed to ensuring that Australians understand their new obligations under the legislation. To this end $13.1 million has been allocated to a public education and awareness program. He also noted that the Australian Transaction Reports Analysis Centre, AUSTRAC, which will have a range of new regulatory functions, will receive an additional $139 million over four years.

Main Provisions

Consultation and commencement

The Senate Committee noted that there were concerns amongst affected parties about the staggered commencement provisions of the Bill. The most complex and costly obligations of the Bill are to be implemented 24 months after Royal Assent. The Explanatory Memorandum states that:

> This will allow industry time to develop necessary systems in the most cost efficient way. There will also be a period of 12 months after each stage is implemented during which AUSTRAC will focus on education, with punitive action only being taken if a business is making no reasonable attempt to move towards compliance.[4]

The Senate inquiry also noted that industry groups and stakeholders have continuing specific issues ranging from requests for technical re-drafting to issues regarding the intent and the scope of the Bill. In particular, stakeholders have concerns in relation to the practical impact of some provisions, as well as privacy and discrimination concerns.

Overview of the Bill

Clause 4 provides a simplified outline of the Bill.

Financial institutions, or other legal or natural persons, listed in column one of the tables in sub-clauses 6(2), (3), (4) and (5) of the Bill, who provide a designated service to the customers listed in column two of the tables. These entities will acquire reporting responsibilities under the Bill.

- reporting entities must carry out a procedure to verify a customer's identity before (or in some special cases, after) providing a designated service.
- existing customers of reporting entities and certain services which are considered to pose a low risk of money laundering or terrorist financing have modified identification procedures.
- reporting entities must report to the AUSTRAC CEO suspicious matters, transactions which exceed a certain threshold and international funds transfer instructions.
- cross-border movements of currency above a threshold must be reported to the AUSTRAC CEO or a customs or police officer. Where requested, a person must report cross border movements of Bearer Negotiable Instruments.
- electronic funds transfer instructions must include customer originator information.
- providers of designated remittance services must be registered with the AUSTRAC CEO. Reporting entities must develop anti-money laundering and counter terrorism financing programmes. Financial institutions are subject to restrictions as to entry of

correspondent banking relationships. Reporting entities must comply with certain record keeping obligations.

Clause 3 establishes the constitutional basis for the Bill. The Bill relies on the external affairs power for its general operation. It also relies on the heads of power set out in Schedule 1. This approach has been adopted to ensure that the Bill does not go beyond power and to ensure that the heads of power set out in Schedule 1 may also be relied upon.

The Explanatory Memorandum refers to other international influences such as: the USA Patriot Act, the Third European Directive on Money Laundering, Basel Committee Guidance on Customer Due Diligence and the Wolfsburg Group Principles on managing money laundering risk. There are also obligations under United Nations Conventions and UN Security Council and General Assembly Resolutions set out in **subclause 3(2)**.

The new AML/CTF regime

What is money-laundering?

Money laundering has been defined as the process by which illicit source moneys are introduced into an economy and used for legitimate purposes.

Under the definitions in **section 5**, *money laundering* means conduct that amounts to:

(a) an offence against Division 400 of the Criminal Code; or

(b) an offence against a law of a State or Territory that corresponds to an offence referred to in paragraph (a); or

(c) an offence against a law of a foreign country or of a part of a foreign country that corresponds to an offence referred to in paragraph (a).

What is counter-terrorism financing?

Under **section 5**, *financing of terrorism* means conduct that amounts to:

(a) an offence against section 102.6 or Division 103 of the Criminal Code; or

(b) an offence against section 20 or 21 of the *Charter of the United Nations Act 1945*; or

(c) an offence against a law of a State or Territory that corresponds to an offence referred to in paragraph (a) or (b); or

(d) an offence against a law of a foreign country or a part of a foreign country that corresponds to an offence referred to in paragraph (a) or (b).

Schedules 3 and 9 of the *Anti-Terrorism Act (No. 2) 2005* were enacted to amend the money-laundering rules in the FTR Act and better implement some of the Financial Action Task Force special recommendations on combating the financing of terrorism. It is to come into force on 14 December 2006. See further the Bills Digest for the Anti-Terrorism Bill (No 2) 2005, and the Bills Digest for the Suppression of the Financing of Terrorism Bill 2002.

The provisions amending the Criminal Code noted above were controversial and have attracted adverse comment in the current Senate inquiry. As Liberty Victoria stated:

> These offences, in particular, that found in section 102.6 of the *Criminal Code*, are very broad and capture conduct that go far beyond intentional funding of politically or religiously motivated violence. Under section 102.6 of the *Criminal Code*, it is illegal to fund a 'terrorist organisation' *regardless* of the use to which the funds are put. For example, giving money to Hamas for the sole purpose of assisting its humanitarian activities is punishable by 25 years if the donor knows that recipient of funds is Hamas.
>
> In the context where all but one of the listed 'terrorist organisations' under the *Criminal Code* are self-identified Muslim groups, the *Criminal Code* 'terrorist organisation' provisions have resulted in a tangible sense of fear and uncertainty amongst Muslim Australians especially in relation to charity giving.[5]

Who is a reporting entity?

The Bill will cover the financial and gambling sectors, bullion dealers and lawyers/accountants (but only to the extent that they provide financial services in direct competition with the financial sector – legal professional privilege will still apply) who provide designated services listed in the tables in **section 6**. The second tranche will cover real estate agents, jewellers, lawyers and accountants.

Obligations under the AML/CTF Bill are imposed when entities provide designated services. Entities providing any of the designated services listed in **Tables 1-4 of section 6**, **Part 1** of the Bill are referred to as *reporting entities*. The services covered by the Tables in clause 6 are separated into financial services, bullion, gambling services and prescribed services (i.e. a service specified in the regulations).

What is a risk-based approach?

The Bill adopts a risk based approach to AML/CTF compliance, under which principal obligations are set out, but businesses will have flexibility to develop procedures according to different risks which they identify using their own AML/CTF Programs. The Rules are not yet available. This attracted adverse comment from industry during the Senate inquiry.

What is a designated service?

The *designated services* in the tables in **section 6** cover a wide range of financial services including opening an account, accepting money on deposit, making a loan, issuing a bill of exchange, a promissory note or a letter of credit, issuing a debit or stored value card, issuing traveller's cheques, sending and receiving electronic funds transfer instructions, making money or property available under a designated remittance arrangement, acquiring or disposing of a bill of exchange, promissory note or letter of credit, issuing or selling a security or derivative, accepting a contribution, roll-over or transfer in respect of a member of a superannuation fund and exchanging currency.

What are the new obligations?

Persons who provide the designated services to a customer become reporting entities (REs) who incur reporting and other obligations under the Bill, such as:

- *Identification and verification*. REs must verify a customer's identity before providing a customer with a designated service. REs must carry out ongoing due diligence on customers.
- *Reporting*. REs must report suspicious matters, certain transactions above a threshold and international funds transfer instructions.
- *Developing and maintaining an AML/CTF Program*. REs must have and comply with anti-money laundering and counter-terrorism financing programs (AML/CTF programs), which are designed to identify, mitigate and manage money laundering or terrorist financing risks a reporting entity may reasonably face. Members of a designated business group (DBG) may enter into a joint AML/CTF program with other members of that DBG.
- *Record keeping*. REs must make and retain certain records (and other documents given to REs by customers) for 7 years.

The Bill includes provisions relating to 'correspondent banking', which prevent financial institutions from entering into a correspondent banking relationship with a 'shell bank' or another financial institution that has a correspondent banking relationship with a shell bank.

Expansion of AUSTRAC powers

The legislation provides the Australian Transaction Reports Analysis Centre, AUSTRAC, with new regulatory functions.

AUSTRAC is Australia's financial intelligence unit (FIU) and anti-money laundering and counter-terrorism financing regulator. AUSTRAC was established in 1989 under the FTR Act as a statutory authority within the Attorney-General's Portfolio. The Director of AUSTRAC reports to the Minister for Justice and Customs.

Under the FTR Act, AUSTRAC is not an investigative or prosecutorial agency. AUSTRAC collects financial transaction reports information from a range of cash dealers including the financial services, bullion and gaming sectors, as well as solicitors and members of the public. These reports include suspect transactions, significant cash transactions, international funds transfer instructions and international currency transfer reports. This information is stored, analysed and disseminated as financial intelligence to domestic law enforcement, revenue, national security and social justice agencies, as well as international FIU counterparts with which AUSTRAC has exchange agreements. AUSTRAC also oversees the identification of accounts and account signatories (for example, the 100 point check).[6]

Under the new legislation, AUSTRAC will have a significantly expanded role as the national AML/CTF regulator with supervisory, monitoring and enforcement functions over a diverse range of industry sectors. AUSTRAC will also have an education role in providing guidance for business on AML/CTF compliance.[7] In his foreword to AUSTRAC's 2005-06 Annual Report, the AUSTRAC Director commented:

> In the proposed AML/CTF environment, the breadth of AUSTRAC's role will change. The agency will become focused on reporting entities having appropriate systems and controls in place to identify, manage and mitigate money laundering and terrorism financing risks within their business.
>
> It will also ensure compliance with the reporting obligations outlined within the legislation. AUSTRAC's principal regulatory philosophy of co-operation and facilitation, working in partnership with those entities with AML/CTF obligations, will continue. However, in cases where serious non-compliance is detected, AUSTRAC will seek to take appropriate enforcement action.[8]

New AUSTRAC functions

Briefly, the new AUSTRAC functions will include:

- Reporting entities (REs) must give AUSTRAC reports about suspicious matters;
- REs must advise AUSTRAC about threshold transactions (over $10,000). A number of submissions to the Senate Inquiry into the Bill noted that this amount has not changed in the 18 years since the FTR Act was introduced, the increased number of financial transactions now, and the smaller purchasing power of $10,000, may indicate that it is time to revise the threshold upwards.
- A person sending or receiving an international funds transfer instruction must advise AUSTRAC about the instruction.
- Cross-border movements of physical currency must be reported to AUSTRAC, a customs officer or a police officer if the total value is above $10,000.
- A RE may be required to give AML/CTF compliance reports to the AUSTRAC CEO.

- AUSTRAC will monitor compliance by REs of their obligations under the Act and Rules and Regulations, and may give remedial directions to a RE that has contravened a civil penalty provision.
- AUSTRAC may require a RE to carry out an external audit on their compliance with the Act or their risk management relating to money laundering and terrorism financing. The Insurance Australia Group questioned AUSTRAC's expertise in interpreting risk assessments from specialised industries, and noted that the significant cost of such risk assessments would presumably be borne by RE.[9]
- AUSTRAC may seek a federal court injunction restraining a person from engaging in conduct which contravenes the civil penalty provisions within the Act and requiring the person to take action, if considered by the Court desirable to do so.
- AUSTRAC may accept enforceable undertakings from a person regarding actions (or lack thereof) which may contravene the Act or the Rules and Regulations. If AUSTRAC believes that the person has breached the undertaking, AUSTRAC may apply for a Federal Court order to direct the person to comply, pay the Commonwealth any financial benefit obtained as a result of the breach, pay compensation to another person who has suffered loss as a result of the breach, or any other order. The Minter Ellison submission to the Senate Inquiry recommended that the Bill be amended to ensure that enforceable undertakings are confidential, or AUSTRAC only publish a summary of undertakings without naming names.[10]
- The Bill also allows the Australian Taxation Office and other designated agencies access to AUSTRAC information, for the purposes of performing that agency's functions. Privacy groups raised concerns about this provision in their submissions to the Senate inquiry, and questioned why agencies such as Centrelink, the Child Support Agency and state and territory agencies should have access to sensitive personal financial information.

General commentary and most submissions to the Senate Inquiry have supported the above changes to AUSTRAC's functions. Most concerns have been raised surrounding the power of AUSTRAC to make the Rules and Regulations, and privacy issues. These are further outlined below.

AUSTRAC Administration

Part 16 of the Bill covers administrative aspects of AUSTRAC's functions. It replaces the role of Director of AUSTRAC with that of Chief Executive Officer (CEO), and outlines the role and functions of the AUSTRAC CEO and AUSTRAC staff.

Section 229 of the Bill allows the AUSTRAC CEO to make the AML/CTM Rules which are referred to throughout the rest of the Bill. These Rules are Legislative Instruments. The Minister may direct the AUSTRAC CEO to make such AML/CTM Rules (s. 299 (3)). Minter Ellison Lawyers expressed concern about the ability of AUSTRAC to make such rules:

> … the Bill gives AUSTRAC even wider powers to make Rules, making the Bill simply a framework to be completed by AUSTRAC. However, although AUSTRAC has over 85 different rule making powers, it has only released Rules arising under 10 of them.[11]

Secrecy, 'tipping off', and access provisions

Part 11 of the Bill outlines secrecy and access provisions regarding information obtained or held by AUSTRAC. Part 11 applies to the new Act and also to the FTR Act. It replaces Part IV of the FTR Act, which is to be repealed by item 114 in the consequential amendments bill.

Sections 121 and 122 outline the secrecy provisions surrounding AUSTRAC information and documents containing AUSTRAC information.

Section 121 makes it an offence for an entrusted public official (the AUSTRAC CEO, AUSTRAC staff or contractors) to disclose AUSTRAC information obtained under section 49 or Division 4 of the Act, to another person. The penalty is imprisonment for 2 years, or 120 penalty units, or both.

Subsection 121(3) lists a number of exemptions for disclosure, related to the carrying out of AUSTRAC functions. If relying on subsection 121(3) as a defence for disclosing AUSTRAC information, the defendant bears an evidential burden in relation to a matter in subsection (3). This is defined in the *Criminal Code Act 1995* as: 'the burden of adducing or pointing to evidence that suggests a reasonable possibility that the matter exists or does not exist.'[12]

Section 122 relates to the disclosure of section 49 information, and applies to a broader range of people than section 121. Section 49 information is that gained when following up on information given to AUSTRAC or related agencies under sections 41 (reports of suspicious matters), 43 (reports of threshold transactions), or 45 (reports of international funds transfer instructions) of the Act. Section 122 provides that disclosing section 49 information to another person is an offence punishable by imprisonment for 2 years or 120 penalty units, or both. As for section 121, a number of exemptions apply.

Section 123 creates offences for 'tipping off' by a financial institution to a person or organisation that a suspicious transaction report has been made to AUSTRAC, or that a suspicion has been formed regarding a particular transaction. This implements Recommendation 14 of the Financial Action Taskforce (FATF). Subsections 4-9 outline exemptions to the tipping off provisions.

Submissions to the Senate Inquiry into the Bill highlighted a number of concerns regarding the 'tipping off' provisions. Minter Ellison Lawyers argued that under the current bill, it would be easy to inadvertently tip off a person when fulfilling other obligations under the Act. For example, the Bill requires a reporting entity to cease

providing services to a customer if a suspicion arises regarding their identity, until the identity can be verified. Minter Ellison comments:

> …a reporting entity is placed in a very difficult position of having to find a way to explain a request for identification information and disruption to existing services to the customer without disclosing any information from which the customer could reasonably be expected to infer that the reporting entity has formed a suspicion or reported the matter to AUSTRAC – which is a tipping-off offence. There is a much higher risk that a reporting entity will inadvertently tip-off a customer in such circumstances.[13]

Minter Ellison argued for the insertion of a defence provision for inadvertent 'tipping off'. Technology company Infosys raised similar concerns, highlighting the need to design call centre processes that do not lead to inadvertent tip-offs. Infosys points out that call centre staff are not lawyers, and may need to answer questions such as 'what is my risk rating?', 'why is my transaction being delayed?' and 'Why are you asking me additional questions about beneficial ownership' – without tipping off the customer about a suspicion.[14]

The Australian Privacy Foundation observed that the onus for implementing the tip-off provisions may be placed on employees:

> Small businesses' relationships with their customers will be severely threatened by the knowledge that a wide range of factors may lead to a suspicious matter report. If asked by a customer "Are you telling any government agencies about me?" shop assistants and counter staff will in some cases be required by the Act to lie.
>
> The massive extension of mandatory 'dobbing in', on the most subjective of grounds, by relatively inexperienced and unqualified private sector employees will be highly objectionable to most Australians. Spying on citizens on behalf of the State is not something we should find an acceptable role for Australian businesses.[15]

Privacy groups also raised concerns about the increased access for AUSTRAC and other agencies to personal financial information, and the tip-off provisions which may prevent an individual from knowing that AUSTRAC and other Australian or foreign institutions possess this information. Liberty Victoria submitted:

> … if the Bill is enacted, personal information of some citizens will through the conduit of Suspicious Matters reports be available to a broad range of Australian and foreign authorities. Such flows of information are, however, kept secret from the affected persons because of the 'tipping off' offence that generally prohibits disclosure of the fact that a Suspicious Matter report has been filed or the reasons for filing such a report.
>
> It is the secrecy surrounding these flows of information that undermines the rule of law. Citizens subject to a Suspicious Matters report are not in a position to ensure that the 'reporting entity', AUSTRAC or other authorities in possession of his or her

> personal information are complying with the law. This is simply because s/he would not know such information has been communicated.[16]

Similarly, the Office of the Privacy Commissioner submitted:

> …[an] individual's personal information collected for the purpose of enforcing serious crime, such as money laundering and terrorism financing, should generally only be used for such purposes. Collecting and sharing personal financial information for matters of lesser gravity than AML/CTF and other similarly major crime may not align with community expectations concerning how this information should be handled.
>
> The Office reiterates its previous view that the access to personal information held by AUSTRAC should be narrowly restricted to those agencies and other bodies that require such information as a necessary part of responding to major crimes.[17]

The Attorney-General addressed privacy concerns in the following manner in his second reading speech:

> The new regime will impact on privacy but the impact is a proportionate response to the problems caused by money laundering and terrorism financing in the current climate of heightened organised criminal and terrorist activity. The legislative package includes provisions to ensure that the privacy of legitimate customers is not unnecessarily affected by the legislation. The government is confident that the legislative package strikes the right balance between privacy interests and the needs of law enforcement agencies for targeted information about possible criminal activity.[18]

The Attorney-General's Department has prepared a Privacy Impact Statement which can be accessed at http://www.ag.gov.au/aml.

The Labor Senators on the Bill Inquiry recommended that AUSTRAC be subject to oversight by the Australian Commission for Law Enforcement Integrity upon its establishment.

Endnotes

1. The Hon Philip Ruddock, Attorney-General, *Debates*, House of Representatives, 1 November 2006, p. 1.
2. Explanatory Memorandum, p. 3.
3. id.
4. ibid, p. 20.

5. Liberty Victoria, submission to the Senate Inquiry, available at: http://www.aph.gov.au/Senate/committee/legcon_ctte/aml_ctf06/submissions/sub01.pdf, accessed 28 November 2006.
6. AUSTRAC internet site, 'About AUSTRAC', available at: http://www.austrac.gov.au/about/index.htm, accessed 28 November 2006.
7. Hon. Phillip Ruddock MP, Attorney-General, Second *Reading Speech*, p. 1.
8. AUSTRAC Annual Report 2005-06.
9. Insurance Australia Group, submission to Senate Inquiry, at: http://www.aph.gov.au/Senate/committee/legcon_ctte/aml_ctf06/submissions/sub03.pdf, accessed 29 November 2006.
10. Minter Ellison Lawyers, Minter Ellison Lawyers, *Submission to the Senate Legal and Constitutional Affairs Committee inquiry into the Provisions of the Provisions of the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006, and the Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Bill 200*6, available at: http://www.aph.gov.au/Senate/committee/legcon_ctte/aml_ctf06/submissions/sub05.pdf, accessed 28 November 2006.
11. Minter Ellison Lawyers, *Submission to the Senate Legal and Constitutional Affairs Committee inquiry into the Provisions of the Provisions of the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006, and the Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Bill 200*6, available at: http://www.aph.gov.au/Senate/committee/legcon_ctte/aml_ctf06/submissions/sub05.pdf, accessed 28 November 2006.
12. Criminal Code Act 1995, Section 13.3(3).
13. Minter Ellison, submission to Senate Committee, at: http://www.aph.gov.au/Senate/committee/legcon_ctte/aml_ctf06/submissions/sub05.pdf, accessed 28 November 2006.
14. Infosys, submission to Senate Inquiry, at: http://www.aph.gov.au/Senate/committee/legcon_ctte/aml_ctf06/submissions/sub07.pdf, accessed 28 November 2006.
15. Australian Privacy Foundation, submission to the Senate Inquiry, available at: http://www.aph.gov.au/Senate/committee/legcon_ctte/aml_ctf06/submissions/sublist.htm, accessed 28 November 2006.
16. Liberty Victoria, submission to the Senate Inquiry, available at: http://www.aph.gov.au/Senate/committee/legcon_ctte/aml_ctf06/submissions/sub01.pdf, accessed 28 November 2006.
17. Office of the Federal Privacy Commissioner, submission to the Senate Inquiry, available at: http://www.aph.gov.au/Senate/committee/legcon_ctte/aml_ctf06/submissions/sub40.pdf, accessed 29 November 2006.

18. The Hon Philip Ruddock, Attorney-General, *Debates*, House of Representatives, 1 November 2006, p. 1.

Members, Senators and Parliamentary staff can obtain further information from the Parliamentary Library on (02) 6277 2759.