



Objectives

In this module we will address the following questions:

- What is the purpose of the FTR Act?
- To whom does the FTR Act apply?
- What are the key requirements of the FTR Act?
- Who administers the FTR Act?
- What types of transactions must be reported?
- What are significant cash transaction reports?
- What are international funds transfer instructions?
- What are suspect transaction reports?
- What are the key 'know your customer' (KYC) obligations?
- What are the key document retention obligations?

Your key learning objectives will be to respond effectively to each of the questions listed above.

What is the purpose of the FTR Act?

The *Financial Transaction Reports Act, 1988* (FTR Act) is part of Australia's anti-money laundering and counter-terrorism financing legislative framework. The FTR Act has been supplemented by the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

The FTR Act provides for the reporting of certain transactions and transfers and imposes obligations in relation to accounts and other related purposes.

To whom does the FTR Act apply?

The FTR Act applied to a wide range of businesses, most of which are now captured by the AML/CTF Act instead. The types of entities covered by the FTR Act are referred to as 'cash dealers' and (prior to the AML/CTF Act) included:

- banks, building societies, credit unions and other financial institutions
- financial corporations
- insurance companies and intermediaries
- securities dealers and futures brokers
- cash carriers
- managers and trustees of unit trusts
- firms dealing in traveller's cheques and/or money orders
- casinos and gambling houses
- TABs, on-course Totes and bookmakers
- bullion sellers
- remittance dealers
- bureau de change/foreign exchange operations.

Cash dealers not captured by the AML/CTF Act as 'reporting entities' still have obligations under the FTR Act.

What are the key requirements of the FTR Act?

The FTR Act requires cash dealers to:

- report specific transactions
- comply with know your customer obligations
- retain specified documents.

Who administers the FTR Act?

The Australian Transaction Reports and Analysis Centre (AUSTRAC) was established under the FTR Act as Australia's anti-money laundering regulator and specialist financial intelligence unit. AUSTRAC's existence is continued by the AML/CTF Act.

What types of transactions must be reported?

Under the FTR Act cash dealers report three types of transactions to AUSTRAC:

- significant cash transactions
- international funds transfer instructions
- suspect transactions.

What are significant cash transaction reporting obligations?

A significant cash transaction is a transaction with a cash component of at least AUD10,000 or its equivalent in foreign currency. Cash dealers must report all such transactions to AUSTRAC. Section 15A of the FTR Act also requires solicitors to report significant cash transactions to AUSTRAC.



What is a cash transaction?

A cash transaction involves the physical transfer of currency from one person to another. The currency involved could be Australian dollars or a foreign currency.

What types of cash transactions are covered?

Some examples of transactions involving the transfer of currency (notes and coins) are:

- deposit into a bank account
- purchase of stocks or bonds
- payout on gambling winnings
- purchase of traveller's cheques
- delivery of cash to meet a payroll.

What are the reporting obligations?

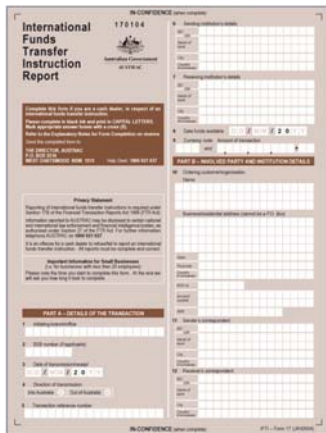
Cash dealers must report significant cash transactions to AUSTRAC (unless an exemption applies). If the transaction involves foreign currency, the report must be made by the end of the day after the day on which the transaction takes place. If the transaction does not involve foreign currency, the report must be made within 15 days of the transaction taking place.



On 12 December 2008, the AML/CTF Act 'threshold transaction' reporting obligation came into effect. These obligations only apply to 'reporting entities' that provide 'designated services'.

What are the international funds transfer instruction reporting obligations?

An international funds transfer instruction (IFTI) is an instruction transmitted electronically into or out of Australia for the transfer of funds. With certain exceptions, cash dealers must report IFTIs in relation to instructions of which they are either senders or recipients. The funds involved could be Australian dollars or the foreign equivalent. All such instructions should be reported to AUSTRAC. There is no monetary threshold attached to reporting IFTIs.

The image shows a screenshot of the 'International Funds Transfer Instruction Report' form. The form is titled 'International Funds Transfer Instruction Report' and includes a section for 'PART A - DETAILS OF THE TRANSACTION'. It contains various fields for reporting details, including 'Sender's name', 'Sender's address', 'Recipient's name', 'Recipient's address', 'Amount', 'Currency', and 'Date'. There are also sections for 'Sender's account details' and 'Recipient's account details'. The form is designed to be filled out by cash dealers to report IFTIs to AUSTRAC.

Who needs to report IFTIs?

A report must be submitted to AUSTRAC by any cash dealer who is the sender or recipient of an IFTI.

Who reports inward IFTIs?

Generally, inward-bound IFTIs must be reported by the first point of contact in Australia. For example, a customer overseas sends a fax instructing his credit union to transfer funds from Singapore to Sydney. The credit union would report this as an inward IFTI, because it has received an electronically-transmitted instruction from an international location. It is the instruction, not the actual funds transfer, which is the trigger for an IFTI report.

Who reports outward IFTIs?

Generally, outward-bound IFTIs must be reported by the last point of contact in Australia. For example, a customer in Australia instructs his credit union to transfer funds from Sydney to Singapore. The credit union in this case does not have the capability to do a telegraphic transfer itself, so the credit union uses a bank in Australia to complete the actual funds transfer. The responsibility to report the outward-bound IFTI is with the bank, not with the customer or the credit union, because it is the bank transmitting the electronic instruction to an international destination.

When must the IFTI report be made?

IFTIs lodged by cash dealers under the FTR Act must be reported to AUSTRAC within 14 days from the day the instruction is sent or received.



On 12 December 2008, the AML/CTF Act IFTI reporting obligation came into effect. This obligation only applies in relation to 'designated services'.

What are the suspect transaction reporting obligations?

A suspect transaction is a transaction which a cash dealer has reasonable grounds to suspect may be linked to tax evasion, criminal offences or terrorist acts. Cash dealers should report a suspect transaction if they have suspicions about the monies, individuals or circumstances involved in a transaction. Note that there does not have to be a completed transaction in order to report. Anything that raises a cash dealer's suspicion can be reported as a suspect transaction, including enquiries or suspicious behaviour.



A suspect transaction may be relevant in these circumstances:

- An investigation or prosecution of an evasion or attempted evasion of tax laws or an offence against the law of the Commonwealth or a territory.
- In the enforcement of anti-money laundering law (e.g. the *Proceeds of Crime Act 1987*).
- An investigation or prosecution of a financing of terrorism offence or preparation to the commission of such an offence.

What could give rise to suspicion?

The cash dealer could have a suspicion in relation to the amount or sources of money, the individuals, or the circumstances involved. Some examples are:

- unusual transactions or circumstances
- business background of the client
- production of seemingly false identification
- transactions involving known narcotic sources or transit countries
- customer stops or changes transaction after learning of reporting requirements (such as significant cash transaction reports)
- the behaviour of the person conducting the transaction.
- unusual account arrangements (e.g. in another person's name)
- unusual deposit or transfer arrangements (such as multiple deposits less than \$10,000)
- transfers to or from countries which source narcotics or provide tax havens.

How and when must a suspect transaction be reported?

A cash dealer must complete a suspect transaction report (SUSTR) and lodge it with AUSTRAC, if the cash dealer has reasonable grounds for suspicion. The cash dealer should report a suspect transaction as soon as practicable after forming the suspicion. Suspicious matter reporting obligations under the AML/CTF Act came into effect on 12 December 2008, and apply to 'reporting entities' that provide a 'designated service'.

Should the cash dealer inform others?

The FTR Act specifically prohibits cash dealers from disclosing to the client or other parties that they have reported a suspect transaction. If the cash dealer informs third parties, the suspect parties may be 'tipped off'!

What are the benefits of filing a SUSTR?

Filing a SUSTR can both benefit the public and protect the cash dealer. SUSTRs can be used to initiate or further existing investigations by AUSTRAC's partner agencies, but are not used as evidence during prosecution. One reason for this is to protect both the organisation and the staff submitting SUSTRs. For further information regarding the protection built into the legislation to protect cash dealers submitting SUSTRs, see subsection 16(5D) and section 17 of the FTR Act.

What are the key 'know your customer' obligations?

Cash dealers need to obtain and retain two types of information in relation to their customers:

- (1) account information
- (2) signatory information.

What are the key document retention obligations?

Cash dealers need to retain, for specified periods, documents relating to:

- customer account and signatory information
- certain financial transaction documents.

The FTR Act sets obligations on cash dealers to retain documents and records of information in relation to account and signatory information and certain financial transactions. Some examples are copies of signatory identification documents, or a form completed by a customer to obtain a wire transfer.

These retention obligations assist AUSTRAC's partner agencies to obtain evidence concerning the movement of money through the financial system. In order to follow the money trail, it is necessary to have access to information regarding the establishment of accounts and the history of activity through those accounts.

Under the FTR Act, the retention period is seven years from the date of a transaction or closing of an account.

What are the account information requirements?

Under the FTR Act, an 'account' means any facility or arrangement by which a cash dealer does any of the following:

- (a) accepts deposits of currency
- (b) allows withdrawals of currency
- (c) pays cheques or payment orders drawn on the cash dealer by, or collects cheques or payment orders on behalf of, a person other than the cash dealer.

An account also includes any facility or arrangement for a safety deposit box or any other form of safe deposit. It does not include an arrangement for a loan that sets out the amounts and times of advances and repayments, being amounts and times from which the borrower and lender may not depart during the term of the loan.

What are the signatory information requirements?

Cash dealers offering accounts are required to obtain information relating to signatories of accounts and to verify the identity of such signatories. Under the FTR Act there are two methods of verifying the identity of signatories:

- 1) '100 point check' method

The signatory provides their account provider with 100 points' worth of identification. This can be a combination of identification documents depending on the account provider's 'know your customer' policies. Account providers who have applied to AUSTRAC for 'identifying cash dealer' (IDCD) status may use the 100 point check.

- 2) 'Acceptable referee' method

The signatory must find an 'acceptable referee' who has personally known them for at least 12 months to sight one or more identification documents.

Summary

The FTR Act is part of Australia's anti-money laundering and counter-terrorism financing legislative framework. The Act provides for the reporting of certain transactions and imposes obligations relating to accounts and other related purposes.

Obligations under FTR Act are being gradually supplemented by the AML/CTF Act. The first tranche of the AML/CTF Act was fully implemented on 12 December 2008. 'Cash dealers' under the FTR Act may now be 'reporting entities' under the AML/CTF Act. A small number of cash dealers not captured under the AML/CTF Act will continue to report under the FTR Act.

Reporting obligations have been expanded under the AML/CTF Act. A transitional reporting table comparing FTR Act and AML/CTF reports can be downloaded here [insert link]. Further information about AML/CTF reporting obligations can be found in the Reporting Obligations module of this course. Reporting entities enrolled on AUSTRAC Online may also access the AUSTRAC reporting requirements e-learning course.

AUSTRAC intends to maintain its Introduction to AML/CTF e-learning application as an evolving resource to reflect changing patterns of behaviour, legislative development and the broader Anti-Money Laundering environment. Should you require further information on the e-learning application, AUSTRAC's operations, the *Financial Transaction Reports Act 1988* (FTR Act) or the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act), please contact:

AUSTRAC Help Desk via:

help_desk@austrac.gov.au or Telephone 1300 021 037.

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Cash dealers, reporting entities and other stakeholders using this application should be aware of any obligations they may have under the *Privacy Act 1988* (Cth). These obligations could include a duty of confidentiality to their customers and not using personal information for an improper purpose. Further information regarding privacy obligations can be obtained from the Privacy Commission via www.privacy.gov.au or telephone **1300 363 992**. [Click here for AUSTRAC's privacy statement.](#)

Transitional reporting table

Report type	Description	FTR Act	AML/CTF obligations commences	AML/CTF Act
Cross-border movement physical currency (carrying)	Reported by anyone entering or departing Australia, where the amount is AUD10,000 cash or more (or the foreign equivalent).	International currency transfer report (ICTR).	13 December 2006	Report is made to a Customs officer, police officer, or AUSTRAC, usually at the first or last opportunity before entering or leaving Australia.
Cross-border movement physical currency (mailing or shipping)	Reported by anyone when mailing or shipping currency into or out of Australia, where the amount is AUD10,000 cash or more (or the foreign equivalent).	International currency transfer report (ICTR).	13 December 2006	Report can be made to a Customs officer, police officer or AUSTRAC, directly prior to sending currency or within 5 business days of receiving currency.
Cross-border movement bearer negotiable instrument (carrying)	Reported by anyone entering or departing Australia upon request by a Customs or police officer. Bearer negotiable instruments include cheques, traveller's cheques, bearer bonds and promissory notes (regardless of the amount).	N/A	13 December 2006	Customs or police officers must forward the report to AUSTRAC within 5 business days after the day of receipt of the report.
Significant cash transaction	Reported by cash dealers and solicitors for transactions involving AUD10,000 cash or more	Report must be made by the end of the day after the day on which the transaction takes place if	12 December 2008 (threshold transaction report). For solicitors this only applies	Within 10 business days after the day on which the transaction takes place.

	(or the foreign equivalent). Reporting forms have been tailored separately for cash dealers, casinos, betting (e.g. bookmakers, TABs) and solicitors.	foreign currency is involved. If the transaction does not involve foreign currency, report must be made within 15 days of the transaction taking place.	where the solicitor provides a 'designated service' in direct competition with the financial sector.	
International funds transfer instruction	Reported by cash dealers for all funds transfer instructions transmitted into or out of Australia electronically, regardless of amount or method of payment.	Must be reported to AUSTRAC within 14 days from the day the instruction is sent or received.	12 December 2008	Within 10 business days after the day on which the transaction takes place.
Suspect transaction report	Reported by cash dealers where there are reasonable grounds to suspect that a transaction, actual or attempted, may involve the proceeds of crime, tax evasion, terrorism financing or other breaches of a Commonwealth, State or territory law.	The cash dealer should report a suspect transaction 'as soon as practicable' after forming the suspicion.	12 December 2008 (suspicious matter report).	Within 3 business days after the day of the suspicion, unless it involves a potential terrorism financing offence, in which case the report must be submitted within 24 hours of the suspicion being formed.
AML/CTF compliance reports	Provides AUSTRAC with information about reporting entities' compliance with the AML/CTF Act, the regulations and the AML/CTF Rules.	Identifying cash dealer annual compliance report.	12 June 2007	The AML/CTF Rules set the relevant reporting periods and lodgement periods as required.