



AUSTRAC Information Circular No. 42

Bribery of Foreign Public Officials

The Australian Government Attorney-General's Department has released a website dealing with the issue of bribery of foreign public officials. Since 1999 it has been a criminal offence under section 70.2 of the Commonwealth *Criminal Code Act 1995* (Criminal Code) to bribe a foreign public official, whether in Australia or in another country.

Bribery includes providing, causing, offering or promising to provide any advantage to another person where the advantage is not legitimately due. The intention of the bribe must be to influence a foreign public official in the exercise of his or her official duties to obtain or retain business or a business advantage that is not legitimately due to that Australian person or Australian company.

An Australian in another country who bribes or attempts to bribe an official of that country can be prosecuted for bribery in an Australian court. Under Australian law, this means that a person or company can be prosecuted for bribery in Australia for acts that potentially took place overseas. The penalties include a term of imprisonment of up to 10 years and/or a fine of up to \$66,000 for individuals and a fine of up to \$330,000 for companies.

Attempts to bribe a foreign public official can also trigger criminal charges for money laundering, under Division 400 of the Criminal Code. Any benefit obtained from a bribe may be considered 'proceeds of crime' and property intended to be offered as a bribe may be considered an 'instrument of crime'. Any person who knowingly, recklessly or negligently deals with proceeds or instruments of crime may be liable under Division 400 of the Criminal Code for committing a money laundering offence.

The Attorney-General's Department's website can be viewed at:
www.ag.gov.au/foreignbribery.

Members of the public who suspect that an Australian has committed an offence under the foreign bribery legislation may report the matter to Crime Stoppers on 1800 333 000, contact the Australian Federal Police in their capital city, or write to:

Australian Federal Police
GPO Box 401
CANBERRA ACT 2601
AUSTRALIA

Regulated entities should take the above issue into account when considering whether particular transactions should be reported to AUSTRAC as suspicious. Where a transaction is reportable under the *Financial Transaction Reports Act 1988* (FTR Act) as a significant cash transaction and/or an international funds transfer instruction, regulated entities should remember that a suspect transaction report may be required in addition to the other report type(s) where grounds for suspicion exist.

Suspect transaction reports should be made via EDDSWeb, or on Suspect Transaction Report Form 16. For urgent reporting, EDDSWeb logon information, or to order paper reporting forms, contact the AUSTRAC Help Desk (details below).

Further information

AUSTRAC officers are able to provide general information relating to the FTR Act and the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*. Enquiries can be directed to the AUSTRAC Help Desk by:

- email to help_desk@austrac.gov.au
- telephone (02) 9950 0827 or 1300 021 037 (a local call within Australia).

The information contained in this document is intended only to provide a summary and general overview on these matters. It is not intended to be comprehensive. It does not constitute, nor should it be treated as, legal advice or opinions. This document may contain statements of policy which reflect AUSTRAC's administration of the legislation in carrying out its statutory functions. The Commonwealth accepts no liability for any loss suffered as a result of reliance on this publication. AUSTRAC recommends that independent professional advice be sought.

The information contained herein is current as at the date of this document.

Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the *Privacy Act 1988*, including the requirement to comply with the National Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.privacy.gov.au> or call 1300 363 992.

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