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Public Legal Interpretation No. 6 of 2008 – Suspect transactions and suspicious matter reports

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Objective

- 1 The purpose of this Public Legal Interpretation is to set out AUSTRAC's views on the provisions of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) and the *Financial Transaction Reports Act 1988* (FTR Act) as they relate to:
 - the obligation to report suspect transactions within the meaning of section 16 of the FTR Act
 - the obligation to report suspicious matters within the meaning of section 41 of the AML/CTF Act
 - the general prohibition on use of these reports as evidence.

Introduction

- 2 Section 41 of the AML/CTF Act commences on 12 December 2008. Until the commencement of section 41, section 16 of the FTR Act continues to apply.
- 3 The objects of the AML/CTF Act include fulfilling Australia's international obligations and addressing matters of concern in combating money laundering and the financing of terrorism.
- 4 Section 16 of the FTR Act provides that cash dealers (as defined in section 3 of that Act) must make reports of suspect transactions to the AUSTRAC Chief Executive Officer (CEO) in certain circumstances. The section also permits the AUSTRAC CEO and other specified persons to request additional information in relation to a report. Subsection 16(5A) prohibits a cash dealer from disclosing to any person that the information in a report has been communicated to the AUSTRAC CEO.
- 5 Section 41 of the AML/CTF Act provides that reporting entities must make reports of suspicious matters to the AUSTRAC CEO in certain circumstances. Section 49 permits the AUSTRAC CEO and other specified persons to request additional information in relation to reports under section 41, 43 or 45. Section 123 generally prohibits a reporting entity from disclosing suspicious matter information about or relating to a person except to the AUSTRAC CEO, staff of AUSTRAC and other specified exceptions.
- 6 The *Freedom of Information Act 1982* (FOI Act) exempts documents concerning information communicated to AUSTRAC under section 16 of the FTR Act and section 41 or 49 of the AML/CTF Act.¹

Outline of interpretation

- 7 This Public Legal Interpretation contains:
 - Section one:
 - reports of 'suspect transactions' in section 16 of the FTR Act
 - Section two:
 - reports of 'suspicious matters' in section 41 of the AML/CTF Act

¹ Subsection 7(2) and Schedule 2, Part II of the FOI Act.

Section three:

- statutory prohibitions in the FOI Act, the FTR Act and the AML/CTF Act on disclosure of information contained in reports of suspect transactions and suspicious matters.

Interpretation

Section one – reports of suspect transactions

Section 16 of the FTR Act

- 8 Section 16 of the FTR Act sets out the obligation of a cash dealer to make reports to the AUSTRAC CEO of suspect transactions relevant to, or which may be of assistance in:
- an investigation of evasion of a taxation law; or
 - an investigation of, or prosecution of a person for, an offence against a law of the Commonwealth or of a Territory; or
 - enforcement of the proceeds of crime legislation (subsection 16(1)); or
 - financing of terrorism (subsection 16(1A)).
- 9 Section 16 is set out in the Legislation attachment.

Party to a transaction

- 10 Section 16 is applicable to a cash dealer who is 'a party to a transaction'. 'Transaction' is defined in section 3 of the FTR Act as having 'a meaning affected by subsection 3(7)'. Subsection 3(7) states:

Division 2 of Part II applies in relation to a proposal for a transaction, or negotiations for a transaction, in the same way as it applies to a completed transaction.

- 11 Division 2 of Part II of the FTR Act includes section 16. Therefore 'transaction' has the extended meaning set out in subsection 3(7). A cash dealer who is a party to a transaction including proposals and negotiations for the transaction, and who forms the relevant suspicion, must make a report as set out in section 16, regardless of whether or not the transaction was completed.
- 12 'Transaction' has been judicially considered in the following comments of a Canadian Court in *R v Canavan and Busby* [1970] 3 OR 353 at 356, ONT CA per Schroder JA:

"transaction" is a word of a quite comprehensive import, which, so far as I am aware, has never been a subject of any exact legal definition. The word has been interpreted as the justice of each case demanded rather than by any abstract definition. In its ordinary sense it is understood to mean the doing or performing of some matter of business between two or more persons. "Transaction" in its broadest sense expresses the concept of driving, doing or acting as denoted by the Latin word *trans agere* from which it is derived. A "transaction" may and frequently does include a series of occurrences extending over a length of time. Thus, the word "transaction" is normally used to denote some bilateral activity, even though it can also be used to denote an activity in which only a single person is engaged (See *Greenberg v Inland Revenue Commissioner* [1971] 3 All Er 136 at 149, HL, per Lord Reid).

- 13 'Transaction' can refer to a dealing or a series of dealings between two or more parties, often in the course of business, that affects the rights of the parties: *Gordon v VCT* [1965] 113 CLR 604; *Palmer v CMR State Taxation (WA)* (1976) 136 CLR.

- 14 To be a party to a transaction, the party must be aware of the transaction. A cash dealer is not a party to a transaction if the cash dealer is not aware of its occurrence. For example, a cash dealer based in Australia may effect the transaction with the assistance of an overseas parent. In this case, if the overseas parent has knowledge of the transaction the parent may also be a party to the transaction.

Grounds of suspicion

- 15 If a cash dealer has 'reasonable grounds to suspect that information that the cash dealer has concerning the transaction' may be relevant to one of the matters specified in subsection 16(1) or 16(1A), the cash dealer must provide a report of the transaction to the AUSTRAC CEO as soon as practicable after forming the relevant suspicion.
- 16 Subsections 16(1) and 16(1A) set out the grounds on which a cash dealer must report to the AUSTRAC CEO:
- information may be relevant to an investigation of an evasion or attempted evasion of a taxation law²
 - information may be relevant to an investigation or prosecution of an offence against a law of a Territory³
 - information may be of assistance in the enforcement of the *Proceeds of Crime Act 1987* or the *Proceeds of Crime Act 2002*⁴
 - the transaction is preparatory to the commission of a financing of terrorism offence or information may be relevant to the investigation or prosecution of a financing of terrorism offence.⁵ A 'financing of terrorism offence' is defined as an offence under section 102.6 or Division 103 of the *Criminal Code*, or section 20 or 21 of the *Charter of the United Nations Act 1945*⁶.

Reasonable grounds to suspect

- 17 'Reasonable grounds to suspect' indicates that the test is both objective and subjective. That is, the cash dealer must have a real suspicion of the relevant matters and the suspicion must be based on matters or evidence that support the truth of the suspicion.
- 18 The High Court in *Gypsy Jokers Motorcycle Club Inc. v Commissioner of Police*⁷ considered a provision in the *Corruption and Crime Commission Act 2003* (WA) concerning review of a warrant. The legislation gives a right of review concerning whether the Commissioner of Police 'could have reasonably had' a certain belief, prior to issue of a warrant. The High Court stated:

Upon that review the Supreme Court is to be satisfied that facts exist which are sufficient to have induced that belief in a reasonable person. With respect to s76(1) of the Act, the belief in issue is that of the Commissioner of Police stipulated by s72(2), and its reasonableness is to be determined by the Supreme Court upon regard of any submissions and any other "information" which the Commissioner of Police took into consideration.

² Subparagraph 16(1)(b)(i).

³ Subparagraph 16(1)(b)(ii).

⁴ Subparagraphs 16(1)(b)(iii) and (iv).

⁵ Subparagraphs 16(1A)(b)(i) and (ii).

⁶ Subsection 16(6).

⁷ (2008) 242 ALR 191.

- 19 That is, if facts exist which could induce a belief in a reasonable person, then the Court determines the warrant to be validly issued. From this reasoning AUSTRAC concludes that a reasonable belief contains an objective element and must be founded on facts available to the holder of the belief.
- 20 Courts have also held that a reasonable belief includes a genuine belief of certain matters which are later found to be mistaken. The Supreme Court of South Australia in *Police v Jeko Zaprionoz Grozev*⁸ stated:

But Mr Stratton-Smith has referred to a number of cases which suggest that a mistaken belief as to a matter of law can be relied upon as a basis for a reasonable belief that an offence has been committed. Or, putting it a little differently, the authorities can be seen as supporting the view that a reasonable belief can be formed that an offence has been committed, even though that belief might include or ultimately be founded on an error of law.

In *Veivers v Roberts* [1980] Qd R 226 a police officer arrested a man who was, I gather, protesting against the demolition of certain premises. The police officer arrested the man for the offence of being, without lawful excuse, in an "enclosed yard" under certain Queensland legislation. The Court held that the place in question was not an "enclosed yard" for the purposes of the legislation, and dismissed the charge of the offence in connection with which the man was arrested. There was a further charge of resisting the member of the police force in the execution of his duty. The issue was raised of whether the man could be convicted of resisting arrest on a charge in respect of which he had been acquitted. The power of arrest, under s 546 of the Criminal Code 1899 (Qld), was a power to arrest if the police officer "believes on reasonable grounds that the offence has been committed, and that any person has committed it ...".

In brief reasons DM Campbell J said at 228:

A constable may have reasonable grounds for believing that an offence has been committed although he is under a misapprehension as to the law. In this case the respondent was on private property. He was in an area which was fenced in. He was committing a trespass and the constable had reasonable grounds for believing that he found him offending against s 4(1)(viii)(a) of the Vagrants, Gaming and Other Offences Act.

The other members of the Court agreed.⁹

- 21 It is therefore the case that a cash dealer who suspects the relevant matters on reasonable grounds which are later found to be mistaken, has an obligation to report to AUSTRAC. Paragraph 16(5)(d) provides immunity from any action, suit or proceeding for mistakenly reporting matters.
- 22 AUSTRAC therefore concludes that a reasonable belief contains a subjective element and an objective element.

Other matters

- 23 The cash dealer must make the report 'as soon as practicable after forming that suspicion', that is, the suspicions referred to in subsections 16(1) and 16(1A). 'As soon as practicable' is not defined. A report must be made within a short space of time after the suspicion is formed on reasonable grounds. AUSTRAC's view is that what is reasonably practicable will depend on the circumstances of a case. A relevant factor is the seriousness of a suspected offence. For example if there is suspicion on reasonable grounds that a terrorism-related

⁸ [2006] SASC 353.

⁹ [2006] SASC 353 at 360.

offence has been committed, a shorter time period, generally within 24 hours, would be practicable for reporting purposes.

- 24 A report made under subsection 16(1) or 16(1A) must be in the approved form and must contain reportable details of the transaction set out in Schedule 4 of the FTR Act.¹⁰
- 25 Subsection 16(4) provides that the AUSTRAC CEO, or relevant authority, or an investigating officer, may request additional information in a written request specifying the additional information to be provided.
- 26 'Relevant authority'¹¹ means the Commissioner of the Australian Federal Police, the Integrity Commissioner, the Chief Executive Officer of the Australian Crime Commission, the Commissioner of Taxation, or the Chief Executive Officer of Customs.
- 27 'Investigating officer'¹² means a taxation officer, an Australian Federal Police member, a customs officer, a staff member of the Australian Commission for Law Enforcement Integrity, or an examiner or member of the staff of the Australian Crime Commission.

Designated service transaction

- 28 Subsection 16(4A) provides that if a cash dealer is a reporting entity and the transaction occurs after the commencement of Division 1 of Part 3 of the AML/CTF Act,¹³ then:

(4A) subsections (1) and (1A) do not impose any obligations on a cash dealer in relation to a transaction if:

...

(c) the transaction is a designated service transaction.

- 29 'Designated services transaction' is defined in section 3 of the FTR Act as a transaction involved in the provision of a designated service by a reporting entity to a customer, within the meaning of the AML/CTF Act.
- 30 Section 41 of the AML/CTF Act commences on 12 December 2008.
- 31 From 12 December 2008, designated service transactions provided by cash dealers who are also reporting entities need not be reported under section 16 because of subsection 16(4A).
- 32 At present there is no intention to repeal the FTR Act. Cash dealers who are parties to transactions which are not designated service transactions will continue to have obligations to report suspect transactions under section 16 of the FTR Act.
- 33 A cash dealer who is not a reporting entity must continue to report under the FTR Act. For example, section 3 paragraph (c) of the FTR Act defines 'cash dealer' to include an 'insurance intermediary'. A motor vehicle dealer who acts as insurance intermediary by arranging insurance for a motor vehicle, is not a reporting entity for this service. The motor vehicle dealer must continue to report as cash dealer while the FTR Act remains in force.

¹⁰ Subsection 16(2).

¹¹ Subsection 16(6).

¹² Subsection 16(6).

¹³ Division 1 Part 3 of the AML/CTF Act contains section 41 and commences on 12 December 2008.

Cash dealer must not disclose report or information

- 34 A cash dealer who makes a report must not disclose to anyone that the cash dealer has formed the suspicion, or that the transaction has been reported to the AUSTRAC CEO:
- or any other information from which the person to whom the information is disclosed could reasonably be expected to infer that the suspicion had been formed or that the first-mentioned information has been communicated.¹⁴
- 35 To disclose the forming of the suspicion or the providing of the report is an offence punishable by imprisonment of not more than 2 years: subsection 16(5B).
- 36 Section three outlines the admissibility or otherwise of a report made under section 16.

Section two – reports of suspicious matters

Commencement of section 41

- 37 Section 2 of the AML/CTF Act provides that Part 3, Divisions 1 to 4, commence on 12 December 2008. Part 3 Division 2 includes section 41 of the AML/CTF Act.
- 38 As discussed at paragraphs 28 to 33, section 16 of the FTR Act continues to apply until section 41 commences. Further, cash dealers who are parties to transactions which are not designated service transactions will continue to have obligations to report suspect transactions under section 16 of the FTR Act.
- 39 Section 41 is set out in the Legislation attachment.

Provisions of section 41

- 40 Section 41 provides that the obligation to provide a report to the AUSTRAC CEO occurs when:
- the reporting entity commences or proposes to provide a designated service to a person¹⁵ (the first person); or
 - the first person requests the reporting entity to provide a designated service and the service is of a kind ordinarily provided by the reporting entity;¹⁶ or
 - the first person inquires whether the reporting entity would be willing to provide a designated service to the person, and the service is of a kind ordinarily provided by the reporting entity;¹⁷
- and any of the following conditions is satisfied at the relevant time or at a later time:
- the reporting entity suspects on reasonable grounds:
 - that the first person is not the person who they claim to be,¹⁸ or that an agent of the first person is not the person the agent claims to be;¹⁹
 - that the information concerning the provision or prospective provision of the designated service may be relevant to the investigation or prosecution of evasion

¹⁴ Subsection 16(5A).

¹⁵ Paragraph 41(1)(a).

¹⁶ Subparagraph 41(1)(b)(i) and (ii).

¹⁷ Subparagraph 41(1)(c)(i) and (ii).

¹⁸ Paragraph 41(1)(d).

¹⁹ Paragraph 41(1)(e).

of taxation law,²⁰ or of a taxation law or a State or Territory,²¹ or of an offence against a law of the Commonwealth or of a State or Territory,²² or may be of assistance to enforcement of the *Proceeds of Crime Act 2002*,²³ or of a law of a State or Territory that corresponds to the *Proceeds of Crime Act 2002*;²⁴

- that the provision or prospective provision of the service is preparatory to a financing of terrorism offence,²⁵ or that the information may be relevant to the investigation or prosecution of an offence of financing of terrorism;²⁶
- that the provision or prospective provision of the service is preparatory to the commission of an offence of money laundering,²⁷ or that the information may be relevant to the investigation or prosecution of a money laundering offence.²⁸

41 If any of the conditions in paragraphs 41(1)(d) to (j) are met then a reporting obligation arises.

42 'Financing of terrorism' and 'money laundering' are defined in section 5 of the AML/CTF Act:

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).

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).

43 Paragraphs 41(1)(g) and 41(1)(h) state that reports must be made for offences that correspond to paragraphs (a), (b) or (c) of the definition of **financing of terrorism** (excluding paragraph (d) of the definition).

44 Paragraphs 41(1)(i) and 41(1)(j) state that reports must be made that correspond to paragraphs (a) and (b) of the definition of **money laundering** (excluding paragraph (c) of the definition).

²⁰ Subparagraph 41(1)(f)(i).

²¹ Subparagraph 41(1)(f)(ii).

²² Subparagraph 41(1)(f)(iii).

²³ Subparagraph 41(1)(f)(iv).

²⁴ Subparagraph 41(1)(f)(v).

²⁵ Paragraph 41(1)(g).

²⁶ Paragraph 41(1)(h).

²⁷ Paragraph 41(1)(i).

²⁸ Paragraph 41(1)(j).

- 45 That is, the final paragraphs of the definitions of 'financing of terrorism' and 'money laundering' are not included in the relevant subparagraphs in section 41.

The first person

- 46 Subsection 41(1) creates a suspicious matter reporting obligation for a reporting entity in relation to the 'first person'. A person who satisfies the conditions in paragraphs 41(1)(a) to (c) is the first person.
- 47 The identity of the 'first person' is determined at 'the relevant time'. This is the time of the occurrence of the matters in paragraphs 41(1)(a) to (c).
- 48 In most cases the first person is the customer or agent of the customer of the relevant designated service.
- 49 The relevant designated service is taken broadly and includes an inquiry, a proposal, or a request, to provide or commence to provide the service.

Timing of report

- 50 The reporting entity may form a suspicion at 'a later time' than the 'relevant time'. This means that the obligation arises whenever the suspicion on reasonable grounds is formed.
- 51 This may occur at or later than the time of the inquiry, request, proposal, or commencement of provision of designated services to the first person.
- 52 This is confirmed by the Replacement Explanatory Memorandum²⁹ which states at page 8:
- The time for reporting a suspicious transaction does not arise until the reporting entity forms the relevant suspicion.
- 53 Subsection 41(2) requires that the report must be made within certain periods of the reporting obligation having arisen.
- 54 For matters in paragraphs (1)(d), (e), (f), (i) or (j) that do not relate to the offences of 'financing of terrorism' as defined by paragraph (a), (b) or (c) of the definition in section 5, a report must be provided within 3 business days after the day on which the relevant suspicion was formed.
- 55 If an offence of 'financing of terrorism' is suspected, the report must be made within 24 hours after the time at which the relevant suspicion is formed.

Subjective and objective test

- 56 Similarly to the test in section 16, the reporting entity must report if the reporting entity 'suspects on reasonable grounds' the relevant matters in subsection 41(1). This indicates that the test is both objective and subjective.
- 57 AUSTRAC relies on the discussion at paragraphs 17 to 22 as also outlining the subjective and objective test to be applied under section 41 of the AML/CTF Act.
- 58 That is, the reporting entity must have a real suspicion of the relevant matters, and the suspicion must be based on matters or evidence that support the truth of the suspicion.
- 59 Paragraph 41(3)(c) provides that the report must contain a statement of the grounds on which the reporting entity holds the relevant suspicion.

²⁹ The *Anti-Money Laundering and Counter-Terrorism Financing Bill 2006 Replacement Explanatory Memorandum* circulated by authority of the Minister for Justice and Customs.

Differences in formulation of the test in section 41 than in section 16 of the FTR Act

60 The following matters in section 41 are different from the relevant test in section 16 of the FTR Act:

- Section 41 pertains to provision, prospective provision, or a request or inquiry concerning provision of a designated service. Only a reporting entity involved in the provision or proposed provision of, or a request or inquiry in relation to, a designated service must report to the AUSTRAC CEO.

Section 16 refers to a 'transaction' and requires that a cash dealer be a party to the transaction the subject of the report. 'Transaction' has the extended meaning of proposal or negotiations for a transaction.

However, it is likely that the terms of section 41 are broader with respect to a designated service. This is because of the reference to requests or inquiries and to prospective provision of a designated service. AUSTRAC's view is that these matters include offers to provide designated services. AUSTRAC refers to *Public Legal Interpretation No. 4 of 2008 – What constitutes a reporting entity* (see Related information) at paragraph 10.

- Section 41 contains wider grounds of matters on which suspicion may be formed than section 16. Paragraphs 41(1)(d) and (e) refer to grounds of suspicion that the identity of the potential customer or agent of the customer is false.

This is not a specific ground in section 16. However, if a cash dealer suspected that a person concerned in a relevant transaction was not who the person claimed to be, this would most likely constitute reasonable grounds to suspect one of the relevant matters.

- Section 41 refers to prosecution under laws of a State or Territory. Section 16 permits consideration of prosecution or investigation of offences against laws of a Territory and does not refer to laws of a State.
- Section 41 requires that a reporting entity must report if the entity 'suspects on reasonable grounds'. This is essentially the same subjective and objective test as in section 16: 'reasonable grounds to suspect'.
- Grounds in subparagraphs 41(1)(f)(i)–(v) are similar to subparagraphs 16(1)(b)(i)–(iv) and subparagraphs 16(1A)(b)(i)–(ii) (with the proviso that the AML/CTF Act refers to laws of States as well as laws of Territories). That is, if an offence against a law is suspected, a reporting obligation arises under both the FTR Act and the AML/CTF Act.
- Paragraphs 41(1)(g) and (h) are similar to the matters in subsection 16(1A) and pertain to financing of terrorism. There is no relevant equivalent to paragraphs 41(1)(i) and (j) in section 16 of the FTR Act with respect to offences of money laundering.

61 Section 41 does not require that the reporting entity is a party to the transaction. However only a reporting entity (of a designated service with the extended meaning in subsection 41(1)) is obliged to make a report.

62 The overall result is that section 41 may require that some matters be reported which were not required to be reported under section 16. For example, reasonable suspicion of an offence against laws of a State must be reported under section 41.

63 Section 49 provides that the AUSTRAC CEO and other specified officials may request additional information in relation to section 41 suspicious matter reports, by written notice to the reporting entity. This is similar to subsection 16(4). Section three of this Public Legal Interpretation refers to the admissibility of such reports.

Civil penalty

- 64 Subsection 41(4) provides that the obligation to report in subsection 41(2) is a civil penalty provision. This means that the AUSTRAC CEO may take enforcement action if a reporting entity does not comply.
- 65 Such action includes that the AUSTRAC CEO may apply for a civil penalty order in the Federal Court under Part 15, Division 2 of the AML/CTF Act.

AML/CTF Rules

- 66 Subsection 41(5) of the AML/CTF Act provides:
- The AML/CTF Rules may specify matters that are to be taken into account in determining whether there are reasonable grounds for a reporting entity to form a suspicion of the kind mentioned in paragraph (1)(d), (e), (f), (g), (h), (i) or (j).
- 67 This is an important distinction between the FTR Act and the AML/CTF Act. This provision permits AUSTRAC to make Rules to clarify reasonable grounds for a reporting entity to form a suspicion.
- 68 To date no matters have been specified in the AML/CTF Rules.

'Tipping off'

- 69 Section 123 is similar to subsection 16(5A) of the FTR Act. Subsection 123(1) provides that where a suspicious matter reporting obligation has arisen and the reporting entity has communicated information to the AUSTRAC CEO, a reporting entity must not disclose the making of the report or the forming of the suspicion to any person other than the AUSTRAC CEO or a member of staff of AUSTRAC.
- 70 Subsection 123(2) extends beyond the matters in subsection 16(5A) of the FTR Act which requires both that a suspicion has been formed and that the relevant information has been communicated to the AUSTRAC CEO.
- 71 Subsection 123(2) applies to either case, that is:
- the forming of the suspicion;³⁰ or
 - the communication of that suspicion to the AUSTRAC CEO.³¹

In all relevant cases the prohibition does not apply to disclosure to the AUSTRAC CEO or a member of the staff of AUSTRAC.

- 72 In either case, a reporting entity must not disclose:
- that the suspicion has been formed;³² or
 - that the information has been communicated;³³ or
- any information from which a person could be reasonably expected to infer:
- that the suspicion has been formed;³⁴ or

³⁰ Subparagraph 123(2)(b)(i).

³¹ Subparagraph 123(2)(b)(ii).

³² Subparagraph 123(2)(c)(i).

³³ Subsection 123(1) and paragraph 123(2)(d).

- that the information has been communicated.³⁵
- 73 Similarly, if a reporting entity gives information or documents under section 49, the reporting entity must not disclose that the information or documents have been given, or any information from which it could be inferred that the information or documents have been given: subsection 123(3).
- 74 AUSTRAC has published information on the obligations of finance brokers under the AML/CTF Act, including how the tipping off provisions affect such entities. This information is available on the AUSTRAC website at: www.austrac.gov.au/finance_brokers.html.
- 75 In relation to finance brokers who are providing designated services and are thus reporting entities under the AML/CTF Act, it is AUSTRAC's view that the offence of 'tipping off' is limited to explicit disclosure to anyone other than AUSTRAC that a suspicious matter report has been submitted or that the broker has formed the applicable suspicion under subsection 41(1) of the AML/CTF Act.
- 76 The mere act of asking a customer for additional information about their identity or the source or destination of their funds, for example, would not constitute 'disclosing information' under section 123 of the AML/CTF Act.
- 77 Subsection 123(2) does not apply in specified circumstances:
- disclosure by reporting entities who are legal practitioners or qualified accountants where the disclosure is made for the purposes of dissuading a customer from engaging in conduct that would constitute an offence of evasion of a law of taxation or against the law of the Commonwealth or of a State or Territory: 123(4); or
 - disclosure to a legal practitioner for the purpose of obtaining legal advice: 123(5), provided that the legal practitioner does not disclose the information to another person: 123(5A); or
 - disclosure of information about the operation of Part 4 of the *Charter of the United Nations Act 1945*: 123(6), for example, disclosure of information is allowed in order to fulfil the obligations to freeze the assets of proscribed persons or entities designated under United Nations Security Council Financial sanctions regimes and outlined in the Consolidated List maintained by the Department of Foreign Affairs and Trade;
 - disclosure between members of designated business groups in certain circumstances including that the members have a joint anti-money laundering and counter-terrorism financing program and that the disclosures are within the group for the purposes of informing group members about risks involved in dealing with a customer of a reporting entity in the group: 123(7); or
 - disclosure by a reporting entity that is an ADI to an owner-managed branch of the ADI: 123(8); or
 - if disclosure is in compliance with laws of the Commonwealth or a State or Territory or is to an Australian government body responsible for law enforcement: 123(9).

³⁴ Subparagraph 123(2)(c)(ii).

³⁵ Paragraph 123(2)(d).

78 Section 123 is not a civil penalty provision. Subsection 123(11) provides that breach of subsections 123(2), (3), (5A) and (8A) is an offence punishable by imprisonment of 2 years or 120 penalty units, or both. Subsection 235(1) provides an immunity from any action, suit or proceeding in relation to compliance with the obligations of the AML/CTF Act if done in good faith (if subsection 235(2) does not apply).

Agency and the obligation to report

79 As stated at paragraph 56 the reporting entity must report if the reporting entity 'suspects on reasonable grounds' the relevant matters in subsection 41(1). This indicates that the test is both objective and subjective.

80 The subjective element of the test is that the reporting entity must have a real suspicion of the relevant matters. AUSTRAC's view is that the obligation to report suspicious matters under section 41 is on the reporting entity. It is therefore the reporting entity which is required to:

- form the relevant suspicion of a suspicious matter (paragraphs 41(1)(d)-(j) of the AML/CTF Act); and
- communicate the information to the AUSTRAC CEO (subsection 41(2) of the AML/CTF Act); and
- not disclose information from which inference can be made that information has been communicated to the AUSTRAC CEO (paragraph 123(2)(d) of the AML/CTF Act).

81 If an agent of a reporting entity is involved in providing the designated service on behalf of a reporting entity the agent may form a suspicion. If so, the knowledge of the agent is not imputed to the principal as the requisite assessment must be formed by the principal. In AUSTRAC's view, this is then an explicit exception to the application of general principles of agency, where knowledge of the agent might be imputed to the principal in some circumstances.

82 Under subsection 123(2) this means that in such circumstances a reporting entity has not formed the applicable suspicion, unless the information on which it might be based is passed on by the agent. Subsection 123(2) therefore does not prevent an agent from disclosing a suspicion to the principal as the prohibition on disclosure applies to a reporting entity.

83 An agent has a fiduciary duty to communicate all material facts concerning the exercise of the agency to the principal. This includes information concerning the matters in section 41. An agent may also be contractually obliged to report such matters to the principal. A reporting entity that receives such a report from an agent must report to the AUSTRAC CEO if the reporting entity suspects the relevant matters on reasonable grounds, including those contained in the report.

84 To ensure that it is able to comply with its obligations under the AML/CTF Act the reporting entity (principal) should put in place adequate AML/CTF programs. Such programs should provide for the principal's employees and its agents to recognise and report suspicious matters. Further, reporting entities that utilise agents should ensure that agents are contractually bound to report suspicions to the reporting entity.

85 AUSTRAC notes that the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)* (AML/CTF Rules 2007) includes Chapter 15³⁶ relating to requirements to obtain information about customers for ongoing customer due diligence purposes. Reporting entities undertaking ongoing customer due diligence may form

³⁶ Chapter 15 of the AML/CTF Rules 2007 comes into force on 12 December 2008.

suspicions on reasonable grounds where the information is provided by an agent or agents of the reporting entity. In this instance the reporting entity should have programs and contractual arrangements in place to ensure that agents pass on this information.

Section three – evidence of reports to a court or tribunal

Freedom of Information

86 Subsection 7(2) of the FOI Act states:

The persons, bodies and Departments specified in Part II of Schedule 2 are exempt from the operation of this Act in relation to the documents referred to in that Schedule in relation to them.

87 Schedule 2, Part II of the FOI Act includes the following:

Australian Transaction Reports and Analysis Centre, in relation to documents concerning information communicated to it under section 16 of the *Financial Transaction Reports Act 1988* or section 41 or 49 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

88 By operation of subsection 7(2) of the FOI Act, any AUSTRAC documents which concern information communicated under section 16 of the FTR Act or sections 41 or 49 of the AML/CTF Act, are therefore exempt from the operation of the FOI Act. This means that AUSTRAC is not required to produce such documents to an applicant.

Privacy

89 AUSTRAC is not exempt from the *Privacy Act 1988* (Privacy Act) and must comply with the information privacy principles (IPPs) with regard to collection, storage and dissemination of personal information.

90 AUSTRAC considers that section 16 of the FTR Act and sections 41 and 49 of the AML/CTF Act authorise collection of information for a purpose 'that is a lawful purpose directly related to a function or activity' of AUSTRAC within the meaning of IPP 1, IPP 2 and IPP 3.

91 IPP 6 'Access to records containing personal information' states:

Where a record-keeper has possession or control of a record that contains personal information, the individual concerned shall be entitled to have access to that record, *except to the extent that the record-keeper is required or authorised to refuse to provide the individual with access to that record* under the applicable provisions of any law of the Commonwealth that provides for access by persons to documents.
(emphasis added)

92 AUSTRAC relies on the highlighted words as referring to the FOI Act exemptions described at paragraphs 86 to 88. The FOI Act exemptions authorise AUSTRAC 'to refuse to provide the individual with access to that record'.

93 This means that an individual is not entitled to have access to a record containing that individual's personal information, if the document is FOI exempt.

Disclosure of personal information to other parties

94 IPP 11 'Limits on disclosure of personal information' relevantly states:

Limits on disclosure of personal information

1. A record-keeper who has possession or control of a record that contains personal information shall not disclose the information to a person, body or agency (other than the individual concerned) unless:

- (a) the individual concerned is reasonably likely to have been aware, or made aware under Principle 2, that information of that kind is usually passed to that person, body or agency;
- (b) the individual concerned has consented to the disclosure;
- (c) the record-keeper believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or of another person;
- (d) *the disclosure is required or authorised by or under law*; or (emphasis added)
- (e) the disclosure is reasonably necessary for the enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue.

95 AUSTRAC refers to *Public Legal Interpretation No. 5 of 2008 – AUSTRAC information* (see Related information). *Public Legal Interpretation No. 5* describes how Part 11 of the AML/CTF Act authorises AUSTRAC to provide AUSTRAC information to designated agencies and other bodies. AUSTRAC information includes material obtained under section 16 of the FTR Act and sections 41 and 49 of the AML/CTF Act.

96 AUSTRAC relies on Part 11 of the AML/CTF Act as ‘authorising by or under law’ the disclosure to designated agencies and the other bodies referred to in *Public Legal Interpretation No. 5* of AUSTRAC information which may contain personal information.

Disclosure of section 16 and section 41 and 49 information to courts or tribunals

FTR Act

97 Subsection 16(5D) of the FTR Act states:

In any legal proceeding other than a prosecution for an offence against subsection 29(1) or 30(1):

- (a) none of the following is admissible in evidence:
 - (i) a report prepared ... under subsection (1) or (1A);
 - (ii) a copy of such a report;
 - (iii) a document purporting to set out information contained in such a report;
 - (iv) a document given ... under subsection (4) [additional information]; and
- (b) evidence is not admissible as to:
 - (i) whether or not a report was prepared... ;
 - (ii) whether or not a copy ... was given to ... the AUSTRAC CEO ... ;
 - (iii) whether or not particular information was contained in a report ... ;
 - (iv) whether or not particular information was given under subsection (4) ...

98 The effect of subsection (5D) is that:

- reports or copies of reports under section 16
- information based on reports

- additional information provided on request
- evidence as to the contents or the giving or making of any of the above

is not admissible in any proceedings, other than proceedings in relation to the making or giving of the information under subsection 29(1): false or misleading information, or 30(1): incomplete information.

AML/CTF Act

99 The position under the AML/CTF Act is similar. The AML/CTF Act contains multiple provisions concerning the prohibition on giving evidence of information provided under section 41 and section 49, and evidence of the making of a report.

100 Subsection 123(10) provides that a reporting entity is not to be required to disclose to a court or tribunal information mentioned in subsection (1), (2) or (3), unless it is necessary for the purposes of the AML/CTF Act or the FTR Act. The relevant information includes where a suspicious matter reporting obligation has arisen.

101 Subsection 124(1) is in similar terms to subsection 16(5D) of the FTR Act. The effect of subsection 124(1) is that:

- reports or copies of reports under section 41
- information based on reports produced under section 41
- additional information provided on request under section 49
- evidence as to the contents or the giving or making of any of the above

is not admissible in any proceedings.

102 Subsection 124(2) provides that evidence of the above matters may be given in criminal proceedings for an offence against section 123: tipping off, section 136: false or misleading information or section 137: producing false or misleading documents. Further, evidence may be given in proceedings for a civil penalty order under section 175.

AUSTRAC information obtained by the ATO and other agencies

103 *Public Legal Interpretation No. 5 of 2008 – AUSTRAC information*, published on 15 August 2008, covers the provision of AUSTRAC information to other agencies.

Related information

Legislative instruments

The *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*³⁷ can be found at:

www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200730563?OpenDocument

AUSTRAC publications

The AUSTRAC *Public Legal Interpretation No. 4 of 2008 – What constitutes a reporting entity* provides AUSTRAC's views on provision of a designated service by a reporting entity. This Public Legal Interpretation can be accessed via AUSTRAC's website at: www.austrac.gov.au/pli.html.

The AUSTRAC *Public Legal Interpretation No. 5 of 2008 – Access to and disclosure of 'AUSTRAC information'* provides AUSTRAC's views on the provisions of the AML/CTF Act relating to dissemination and protection of AUSTRAC information. This Public Legal Interpretation can be accessed via AUSTRAC's website at: www.austrac.gov.au/pli.html.

The *AUSTRAC Regulatory Guide* contains guidance on obligations under the AML/CTF Act and the FTR Act. Chapter 7 contains information regarding suspect transaction report obligations. It is available on the AUSTRAC website at: www.austrac.gov.au/regulatory_guide.html.

AUSTRAC has published information on the obligations of finance brokers under the AML/CTF Act, including how the tipping off provisions affect such entities. This information is available on the AUSTRAC website at: www.austrac.gov.au/finance_brokers.html.

The *AUSTRAC Typologies and Case Studies Report 2007* is available on the AUSTRAC website at: www.austrac.gov.au/typologies.html.

The AUSTRAC typologies paper on money laundering and terrorism financing indicators is available on the AUSTRAC website at www.austrac.gov.au/typo_paper.html.

The AUSTRAC e-learning 'Introduction to AML/CTF' course's module 'Reporting Obligations' contains some information on suspect transactions and is available on the AUSTRAC website at www.austrac.gov.au/courses.html.

AUSTRAC has published a range of information circulars which address general issues relevant to regulated entities, including details of international financial sanctions which may be relevant to the reporting of suspicious matters and suspect transactions. These information circulars are available on the AUSTRAC website at: www.austrac.gov.au/information_circular.html.

Other

The Department of Foreign Affairs and Trade's website contains information regarding Australia's implementation of United Nations Security Council financial sanctions, including the Consolidated List, at: www.dfat.gov.au/icat/UNSC_financial_sanctions.html.

The Financial Transaction Reports Amendment (Transitional Arrangements) Bill 2008 is available on the Parliament of Australia website at:

http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r3068_first/toc_pdf/08177b01.pdf;fileType=application/pdf#search=%22billsCurBef%22.

³⁷ Legislative Instrument Compilation F2008C00235

Legislation attachment

The *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* is available in consolidated form at:

www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200627290?OpenDocument

Section 16 of the FTR Act provides:

16 Reports of suspect transactions

(1) Subject to subsection (4A), where:

- (a) a cash dealer is a party to a transaction; and
- (b) the cash dealer has reasonable grounds to suspect that information that the cash dealer has concerning the transaction:
 - (i) may be relevant to investigation of an evasion, or attempted evasion, of a taxation law; or
 - (ii) may be relevant to investigation of, or prosecution of a person for, an offence against a law of the Commonwealth or of a Territory; or
 - (iii) may be of assistance in the enforcement of the *Proceeds of Crime Act 1987* or the regulations made under that Act; or
 - (iv) may be of assistance in the enforcement of the *Proceeds of Crime Act 2002* or the regulations made under that Act;

the cash dealer, whether or not required to report the transaction under Division 1 or 3, shall, as soon as practicable after forming that suspicion:

- (c) prepare a report of the transaction; and
- (d) communicate the information contained in the report to the AUSTRAC CEO.

(1A) Subject to subsection (4A), where:

- (a) a cash dealer is a party to a transaction; and
- (b) either:
 - (i) the cash dealer has reasonable grounds to suspect that the transaction is preparatory to the commission of a financing of terrorism offence; or
 - (ii) the cash dealer has reasonable grounds to suspect that information that the cash dealer has concerning the transaction may be relevant to investigation of, or prosecution of a person for, a financing of terrorism offence;

the cash dealer, whether or not required to report the transaction under Division 1 or 3, must, as soon as practicable after forming the suspicion:

- (c) prepare a report of the transaction; and
- (d) communicate the information contained in the report to the AUSTRAC CEO.

(2) A report under subsection (1) or (1A) shall:

- (a) be prepared in the approved form;
 - (b) contain the reportable details of the transaction;
 - (c) contain a statement of the grounds on which the cash dealer holds the suspicion referred to in the subsection under which the report is prepared; and
 - (d) be signed by the cash dealer.
- (3) A communication under subsection (1) or (1A) shall be made to the AUSTRAC CEO:
- (a) by giving the AUSTRAC CEO a copy of the report; or
 - (b) in such other manner and form as is approved by the AUSTRAC CEO, in writing, in relation to the cash dealer or to a class of cash dealers that includes the cash dealer.
- (4) Where a cash dealer communicates information to the AUSTRAC CEO under subsection (1) or (1A), the cash dealer shall, if requested to do so by:
- (a) the AUSTRAC CEO;
 - (b) a relevant authority; or
 - (c) an investigating officer who is carrying out an investigation arising from, or relating to the matters referred to in, the information contained in the report;
- give such further information as is specified in the request to the extent to which the cash dealer has that information.
- (4A) Subsections (1) and (1A) do not impose any obligations on a cash dealer in relation to a transaction if:
- (a) the cash dealer is a reporting entity; and
 - (b) the transaction occurs after the commencement of Division 1 of Part 3 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*; and
 - (c) the transaction is a designated service transaction.
- (5) An action, suit or proceeding does not lie against:
- (a) a cash dealer; or
 - (b) an officer, employee or agent of the cash dealer acting in the course of that person's employment or agency;
- in relation to any action by the cash dealer or person taken:
- (c) under this section; or
 - (d) in the mistaken belief that such action was required under this section.
- (5A) Where a cash dealer communicates to the AUSTRAC CEO, under subsection (1) or (1A), information about the cash dealer's suspicion in relation to a transaction to which the cash dealer is a party, the cash dealer must not disclose to anyone else:
- (a) that the cash dealer has formed the suspicion; or
 - (b) that information has been communicated to the AUSTRAC CEO; or

- (c) any other information from which the person to whom the information is disclosed could reasonably be expected to infer that the suspicion had been formed or that the first-mentioned information had been communicated.

(5AA) If a cash dealer gives further information pursuant to a request under subsection (4), the cash dealer must not disclose to anyone else:

- (a) that the information has been given; or
- (b) any other information from which the person to whom the information is disclosed could reasonably be expected to infer that the first-mentioned information had been given.

(5B) A cash dealer who contravenes subsection (5A) or (5AA) is guilty of an offence punishable, upon conviction, by imprisonment for not more than 2 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

(5C) Neither subsection (5A) nor (5AA) prohibits a cash dealer from communicating or disclosing to any court any information, or matter, referred to in that subsection, but this subsection does not affect the operation of subsection (5D).

(5D) In any legal proceeding other than a prosecution for an offence against subsection 29(1) or 30(1):

(a) none of the following is admissible in evidence:

- (i) a report prepared (whether before or after the commencement of this subsection) under subsection (1) or (1A);
- (ii) a copy of such a report;
- (iii) a document purporting to set out information contained in such a report;
- (iv) a document given (whether before or after the commencement of this subsection) under subsection (4); and

(b) evidence is not admissible as to:

- (i) whether or not a report was prepared (whether before or after the commencement of this subsection) under subsection (1) or (1A); or
- (ii) whether or not a copy of a report prepared under that subsection (whether before or after the commencement of this subsection), or a document purporting to set out information contained in such a report, was given to, or received by, the AUSTRAC CEO (whether before or after the commencement of this subsection); or
- (iii) whether or not particular information was contained in a report prepared under that subsection (whether before or after the commencement of this subsection); or

- (iv) whether or not particular information was given under subsection (4) (whether before or after the commencement of this subsection).

(5E) In subsection (5D):

information includes the formation or existence of a suspicion referred to in subsection (1) or (1A).

(6) In this section:

financing of terrorism offence means an offence under:

- (a) section 102.6 or Division 103 of the *Criminal Code*; or
- (b) section 20 or 21 of the *Charter of the United Nations Act 1945*.

investigating officer means:

- (a) a taxation officer; or
- (b) an AFP member; or
- (c) a customs officer (other than the Chief Executive Officer of Customs); or
- (d) a staff member of ACLEI; or
- (e) an examiner or member of the staff of the ACC.

relevant authority means:

- (a) the Commissioner of the Australian Federal Police; or
- (aa) the Integrity Commissioner; or
- (b) the Chief Executive Officer of the ACC; or
- (c) the Commissioner of Taxation; or
- (d) the Chief Executive Officer of Customs.

reportable details, in relation to a transaction, means the details of the transaction that are referred to in Schedule 4.

Section 41 of the AML/CTF Act provides:

41 Reports of suspicious matters

Suspicious matter reporting obligation

- (1) A suspicious matter reporting obligation arises for a reporting entity in relation to a person (the **first person**) if, at a particular time (the **relevant time**):
 - (a) the reporting entity commences to provide, or proposes to provide, a designated service to the first person; or
 - (b) both:
 - (i) the first person requests the reporting entity to provide a designated service to the first person; and

- (ii) the designated service is of a kind ordinarily provided by the reporting entity; or
- (c) both:
 - (i) the first person inquires of the reporting entity whether the reporting entity would be willing or prepared to provide a designated service to the first person; and
 - (ii) the designated service is of a kind ordinarily provided by the reporting entity;

and any of the following conditions is satisfied:

- (d) at the relevant time or a later time, the reporting entity suspects on reasonable grounds that the first person is not the person the first person claims to be;
- (e) at the relevant time or a later time, the reporting entity suspects on reasonable grounds that an agent of the first person who deals with the reporting entity in relation to the provision or prospective provision of the designated service is not the person the agent claims to be;
- (f) at the relevant time or a later time, the reporting entity suspects on reasonable grounds that information that the reporting entity has concerning the provision, or prospective provision, of the service:
 - (i) may be relevant to investigation of, or prosecution of a person for, an evasion, or an attempted evasion, of a taxation law; or
 - (ii) may be relevant to investigation of, or prosecution of a person for, an evasion, or an attempted evasion, of a law of a State or Territory that deals with taxation; or
 - (iii) may be relevant to investigation of, or prosecution of a person for, an offence against a law of the Commonwealth or of a State or Territory; or
 - (iv) may be of assistance in the enforcement of the *Proceeds of Crime Act 2002* or regulations under that Act; or
 - (v) may be of assistance in the enforcement of a law of a State or Territory that corresponds to the *Proceeds of Crime Act 2002* or regulations under that Act;
- (g) at the relevant time or a later time, the reporting entity suspects on reasonable grounds that the provision, or prospective provision, of the service is preparatory to the commission of an offence covered by paragraph (a), (b) or (c) of the definition of **financing of terrorism** in section 5;
- (h) at the relevant time or a later time, the reporting entity suspects on reasonable grounds that information that the reporting entity has concerning the provision, or prospective provision, of the service may be relevant to the investigation of, or prosecution of a person for, an offence covered by paragraph (a), (b) or (c) of the definition of **financing of terrorism** in section 5;
- (i) at the relevant time or a later time, the reporting entity suspects on reasonable grounds that the provision, or prospective provision, of the service is preparatory to the commission of an offence covered by paragraph (a) or (b) of the definition of **money laundering** in section 5;
- (j) at the relevant time or a later time, the reporting entity suspects on reasonable grounds that information that the reporting entity has concerning the provision, or prospective provision, of the service may be relevant to the investigation of,

or prosecution of a person for, an offence covered by paragraph (a) or (b) of the definition of **money laundering** in section 5.

Report

(2) If a suspicious matter reporting obligation arises for a reporting entity in relation to a person, the reporting entity must give the AUSTRAC CEO a report about the matter within:

- (a) if paragraph (1)(d), (e), (f), (i) or (j) applies—3 business days after the day on which the reporting entity forms the relevant suspicion; or
- (b) if paragraph (1)(g) or (h) applies—24 hours after the time when the reporting entity forms the relevant suspicion.

(3) A report under subsection (2) must:

- (a) be in the approved form; and
- (b) contain such information relating to the matter as is specified in the AML/CTF Rules; and
- (c) contain a statement of the grounds on which the reporting entity holds the relevant suspicion.

Note 1: For additional rules about reports, see section 244.

Note 2: Section 49 deals with the provision of further information, and the production of documents, by the reporting entity.

Civil penalty

(4) Subsection (2) is a civil penalty provision.

Reasonable grounds for suspicion

(5) The AML/CTF Rules may specify matters that are to be taken into account in determining whether there are reasonable grounds for a reporting entity to form a suspicion of a kind mentioned in paragraph (1)(d), (e), (f), (g), (h), (i) or (j).

Note: For specification by class, see subsection 13(3) of the *Legislative Instruments Act 2003*.

Section 49, section 123, section 128, and other sections in Part 11 of the AML/CTF Act may be obtained at: www.comlaw.gov.au.

The *Freedom of Information Act 1982* is available at: www.comlaw.gov.au.

The *Privacy Act 1988* is available at:

[www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/FC11C899AF3F61AECA257490002A7C0B/\\$file/Privacy1988_WD02HYP.doc](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/FC11C899AF3F61AECA257490002A7C0B/$file/Privacy1988_WD02HYP.doc) and contains Information Privacy Principles 1-11.

Further information

AUSTRAC officers are able to assist reporting entities, their staff and the public in providing general information relating to the AML/CTF Act. Enquiries can be directed to the AUSTRAC Help Desk via:

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

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