

Subject: Supplementary APF submission
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Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014

Schedule 1, Part 1 - Amendments

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

The EM explains these changes as follows:

11. The amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) include:

- listing the Attorney-General's Department (AGD) as a 'designated agency' under section 5.

Designation of AGD (Items 2 -4 in Schedule 1, Part 1)

The EM admits that:

'The vast majority of AUSTRAC information considered by AGD would be at an aggregated level to enable the Government to more effectively produce anti-money laundering and counter-terrorism financing policy to be developed.'

Designating agencies which have only a policy development interest in aggregated information would mark a significant departure from the established regime, which affords direct access to AUSTRAC databases only to agencies with a clear operational need.

Such a departure is not justified and would be a 'disproportionate' intrusion into privacy of all Australians, and is thereby incompatible with the ICCPR Article 17 privacy right (the EM acknowledges that proportionality is an accepted factor in assessing whether a measure is 'arbitrary')

There is no reason why AGD cannot continue to receive whatever aggregated AUSTRAC information it needs for policy development purposes either from AUSTRAC itself or via one of the other agencies in its portfolio which has already been designated for sound operational reasons.

Designating AGD under Section 5 of the AML-CTF Act would create a highly undesirable precedent and could lead to a wide range of other 'policy' agencies seeking direct access.

Direct access to AUSTRAC information has already arguably extended well beyond the original and limited purpose of the AML-CTF regime (major function creep), but is at least currently still limited to operational law enforcement and revenue protection functions. It is very important to maintain this threshold, and this amendment should therefore be opposed.

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