

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Group 3

Question No. 92

Senator Singh asked the following question at the hearing on 24 February 2014:

- 1) The Financial Action Task Force (FATF) has made a number of recommendations regarding Australia hasn't it? Have all of these been complied with?
- 2) Are there any recommendations you won't be implementing? Why not?
- 3) Is the Secretary of the Department now involved in FATF? If so, how? What is his role? When did this position commence?

The answer to the honourable senator's question is as follows:

- 1) Yes. Australia was last assessed against the FATF standards in 2005.

FATF does not make recommendations per se, but issues ratings against its standards, the 2012 *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation – the FATF Recommendations*, which are a revision of the standards established in 2003 and are known as the FATF Recommendations. In Australia's 2005 assessment against the 2003 version of the standards, Australia was rated partially compliant or non-compliant with 23 of the then 49 Recommendations, as shown below.

Partially compliant	Non-compliant
R.10 (Record-keeping)	R.5 (Customer due diligence)
R.11 (unusual transactions)	R.6 (Politically exposed persons)
R.17 (sanctions)	R.7 (Correspondent banking)
R.18 (shell banks)	R.8 (New technologies and non face-to-face transactions)
R.21 (higher risk countries)	R.9 (Third parties and introducers)
R.23 (Regulations, supervision, and monitoring)	R.12 (DNFBPs – R.5, 6, 8-11)
R.24 (Designated non-financial Businesses and Professions (DNFBP) – regulation, supervision, and monitoring)	R.15 (Internal controls, compliance, and audit)
R.25 (Guidelines and feedback)	R.16 (DNFBPs – R.13-15, 21)
R.29 (Supervisors)	R.22 (Foreign branches and subsidiaries)
R.34 (Legal arrangements)	SR.VII (Wire transfer rules)
SR.VIII (non-profit organisations)	
SR.IX (Cash couriers)	

The *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) received Royal Assent on 12 December 2006 with a transition period of implementation over 24 months. The AML/CTF Act addressed, either in part or full, many of the issues outlined in the 2005 assessment. Legislative reform since 2006 has also incrementally enhanced Australia's compliance. Australia would now consider itself to be compliant, or largely compliant, with all but Recommendations 12, 16 and 24 and SRVIII.

AML/CTF Rules relating to customer due diligence were made by the AUSTRAC CEO on 15 May 2014 and take effect on 1 June 2014. Policy principles, issued by the Minister for Justice, are in place for the period 1 June 2014 to 31 December 2015 during which reporting entities are required to implement these new requirements. The new AML/CTF Rules address Australia's non-compliance with FATF Recommendations 5 and 6.

2) On 4 December 2013, the government commenced a review of the AML/CTF regime. The review is a legislative requirement under section 251 of the AML/CTF Act, which requires a review of the operation of the Act, Rules and regulations to commence before the end of the period of seven years after its commencement; that is, by 13 December 2013. Terms of Reference for the review are broad and will ensure all relevant issues that business or other groups may raise can be considered. This review coincides with FATF's next assessment of Australia's AML/CTF regime against the revised FATF Recommendations in accordance with the new *Methodology for assessing technical compliance with the FATF Recommendations and the Effectiveness of AML/CFT systems*. Relevant findings of the FATF assessment, to be considered by FATF at its February 2015 Plenary meeting, will be taken into account in the statutory review and reflected in any recommendations to government.

3) The Secretary of the Attorney-General's Department has historically had a role in FATF by virtue of the department leading Australia's delegation to FATF. The current Secretary of the Attorney-General's Department, Mr Roger Wilkins AO, has the additional role of Vice-President of FATF. He will assume the Presidency on 1 July 2014 at the conclusion of the current Russian Presidency, and continue through to June 2015. Successful Presidential candidates assume the Vice-Presidency for one year, and become President the following year. In February 2013, the former Attorney-General, the Hon Mark Dreyfus QC, MP, agreed to Australia seeking the Presidency of FATF and to Mr Wilkins being the candidate. In June 2013 Australia's nomination was endorsed by the FATF Plenary and on 1 July 2013, Mr Wilkins assumed the Vice-Presidency.

The FATF President convenes and chairs the meetings of the FATF Plenary and the Steering Group, and oversees the FATF Secretariat. The President is the principal spokesperson for FATF and represents FATF externally. While the Plenary is the primary decision-making mechanism for FATF, the President takes all other decisions and actions as necessary to achieve the objectives of FATF. The Vice-President assists the President in carrying out his responsibilities.

The Attorney-General's Department has been consulted in preparing this response.