

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN CUSTOMS SERVICE

Question No. 53

Senator Stott-Despoja asked the following question in writing:

2007-2008 Budget measures included \$4.0 million over four years for Customs to fund measures to enforce reporting of cross-border movements of cheques and money orders to prevent terrorist financing:

- a) How does Customs seek to enforce this reporting, and how does its activities in this respect interact with AUSTRAC's responsibilities for overall enforcement of the reporting requirements under the *Financial Transaction Reports Act 1988* and the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*?
- b) Does Customs enforcement involve opening of international mail and if so is this based on random sampling or on some 'prior suspicion' criteria?

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

a) The budget measure funds additional positions necessary for Customs enforcement of s.59(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the AML/CTF Act) at international airports. S.59(1) requires people preparing to depart or arriving in Australia to disclose any bearer negotiable instruments (BNIs), for example traveller's cheques or money orders they might have, if asked by a customs or police officer. If individuals have any BNIs, the customs or police officer can require them to complete a report, which is then forwarded to AUSTRAC.

Enforcement of the BNI reporting requirement at international airports is one of a number of components of Customs border management role. Customs risk assesses all international travellers, and uses its risk assessment processes to determine which travellers should be examined further. The risk that a passenger is carrying BNIs is part of the assessment made when Customs officers are questioning passengers. All travellers who are selected for baggage examination are asked whether they are carrying BNIs. The AML/CTF Act gives Customs officers the necessary powers of questioning, search and seizure.

Following disclosure of a BNI by the traveller, Customs officers oversee the completion of BNI reports, collect the reports, and send the completed reports to AUSTRAC. Information from these reports is entered into AUSTRAC's database and is searchable by authorised users from AUSTRAC and authorised users from AUSTRAC's designated agencies, including Customs. Cross-border BNI reports are useful tools in targeting and investigations work.

In cases where BNIs are not disclosed by the traveller but Customs subsequently detects BNIs on the traveller or among their articles, Customs refers the case to the Australian Federal Police, which takes responsibility for determining if an investigation will be pursued. Penalties for non-disclosure are up to 2 years imprisonment and/or fines of \$5,500. The related offences in the AML/CTF Act of providing false or misleading information or documents carry penalties up to 10 years imprisonment and/or \$1,100,000.

b) No. The *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* requirements for cross-border BNI reporting are directed at international travellers.