

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE

Question No. 121

Senator Ludwig asked the following question at the hearing on 31 October 2005:

- a) How many official on-site visits did AUSTRAC perform in:
 - (i) 2003/04,
 - (ii) 2004/05?
 - (iii) Of those, how many are educational visits?
 - (iv) Please specify what other types of official visits are conducted by AUSTRAC?
- b) How many inspections did AUSTRAC perform in 2003/04 and 2004/05 in:
 - (i) The cash dealer industries
 - (ii) The non-cash dealer industries
 - (iii) Total
- c) What industry-wide recommendations were made to the banks as a result of the audit process?
- d) If any recommendations were made, what follow-up work has been done to ensure that the banks have followed the recommendations?
- e) Over the last two years, what other financial institutions have received compliance inspection audits?
- f) Generally, how often are these formal compliance inspections conducted?
- g) How are the rates, and frequency of audits of banks and other financial dealers determined?
- h) Who are they determined by, and what factors are taken into consideration in determining the above?
- i) How many investigations resulted from inspections as itemised in Question (b):
 - (i) The cash dealer industries
 - (ii) The non-cash dealer industries
 - (iii) Total (specify figures for 2003/04 and 2004/05 please)
- j) As a result of inspections or investigations as itemised in Questions (a) and (b) how many:
 - (i) Charges and
 - (ii) Criminal sanctions were applied?

(please specify “charge”, “quantity”, “total” figures for 2003/04 and 2004/05; “sanction”, “quantity”, “total” figures for 2003/04 and 2004/05).

- k) How many civil penalties have been applied either by AUSTRAC or via the courts as a result on dealers for breaches of their obligations under the FTR Act?

(please specify “sanction”, “quantity”, “total” figures for 2003/04 and 2004/05).

- l) Could you indicate what would typically constitute agreed remedial action against a cash dealer?
 - (i) Could you indicate what sort of follow-up compliance tests are done on the cash dealer?
 - (ii) In how many cases has the cash-dealer still failed AUSTRAC’s subsequent follow-up compliance test?
 - (iii) What action is taken in those cases?
 - (iv) In those cases, please indicate sanction imposed.

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

- a) AUSTRAC has conducted the following numbers of official onsite visits:
 - (i) 2003/04 – 147 onsite visits.
 - (ii) 2004/05 – 161 onsite visits.
 - (iii) Of these onsite visits, 271 were classified as education visits.
 - (iv) The term “official visits” refers to all visits to a cash dealer or solicitor by an AUSTRAC staff member for one or more of the following purposes: educating cash dealer or solicitor representatives; identifying the processes and procedures employed by the cash dealer or solicitor to ensure compliance with the *Financial Transaction Reports Act 1988* (FTR Act); to rectify data quality issues in reports that have been made to AUSTRAC; or, for formal inspections of compliance using the powers under Part IVA of the FTR Act.
- b) For the purpose of this response, an inspection only refers to a formal inspection using the powers under Part IVA of the FTR Act. All other ‘on-site’ visits are undertaken for the range of other purposes stated above. In 2003/04 and 2004/05, AUSTRAC conducted the following inspections:
 - (i) AUSTRAC conducted 36 formal inspections of cash dealer industries in the 2003/2004 year and one formal inspection in the 2004/05 year using the powers under Part IVA of the FTR Act.
 - (ii) The only non-cash dealer sector that AUSTRAC is authorised to inspect are solicitors. No such inspections occurred during 2003/04 and 2004/05 years.
 - (iii) Total formal inspections for 2003/04 and 2004/05 were 37.

It should be noted that prior to December 2005, AUSTRAC’s regulatory strategy sought in the first instance to ensure cash dealer compliance with the FTR Act through cooperative means rather than using formal inspection powers, which were only used where necessary. In a previous response to Senate Estimates questions on 14 February 2005, AUSTRAC advised that it had carried out 86 compliance inspections between 1 February, 2004 and the 31 January, 2005. There was a further 46 education visits to cash dealers during that period. This difference to the current response occurred as education visits were identified at that time as compliance inspections where they achieved a

similar outcome to a compliance inspection. Since December 2005, AUSTRAC has restructured its regulatory area to differentiate between regulatory enforcement and education to allow AUSTRAC to develop a more focused regulatory program in line with a changing environment and new responsibilities foreshadowed in the draft exposure bill.

- c) No industry wide recommendations were made to the banks as a result of the audit process.
- d) N/A
- e) The cash dealer sectors included in the inspections over the past two years were banks, remittance dealers and casinos.
- f) Inspections are conducted as required, following consideration of the need to provide information to a cash dealer on compliance issues, the quantity and quality of reports received, level of risk attributed to the cash dealer and sector, and any other public or law enforcement information available to the Inspection team. Our business planning process sets the priorities for inspections with regard to the associated risks.
- g) AUSTRAC's regulatory business planning process sets the priorities for inspections with regard to the associated risks.
- h) AUSTRAC's regulatory staff prioritise inspections on a variety of elements including the need to provide information to a cash dealer on compliance issues, the quantity and quality of FTR information received, level of risk attributed to the cash dealer and sector, and any other public or law enforcement information available to the inspection team.
- i) No investigations resulted from inspections as itemised in Question (b):
 - (i) The cash dealer industries – Nil
 - (ii) The non-cash dealer industries – Nil
 - (iii) Total 2003/04 and 2004/05- Nil
- j) No charges have been laid or sanctions applied in the years in question.
- k) AUSTRAC does not have powers under the FTR Act to apply civil penalties.
- l) Typically, remedial action would involve back capture of reports not previously provided; and, where non-compliance is detected in regard to account signatory processes, the entity may be requested to review and rectify all accounts, or only those accounts which had been opened within a certain period.
 - (i) The back capture of outstanding reportable transactions is readily monitored through the use of desktop tools. With account signatory issues, generally a timeline is set for rectification and this is monitored with the cash dealer. A follow-up formal inspection may also be necessary.

- (ii) In a number of matters, the cash dealer has not met the original timeline, and further time has been given to meet rectification. Figures cannot readily be provided without extensive additional research.
- (iii) AUSTRAC will meet with or contact the cash dealer to ensure that compliance is met within a further agreed timeline or, in a small number of more serious instances, the matter may be referred to the executive level of the cash dealer.
- (iv) No formal sanctions have been imposed.