

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

Question No. 122

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

- a) Please specify whether any shell banks exist in Australia?
 - (i) how are these banks identified?
- b) What volume of transfer of funds are legitimate organisations transferring to shell banks located:
 - (i) in Australia
 - (ii) externally? (2004/05 figures if possible)
- c) What about in terms of whether cash dealers dealing with foreign firms who themselves deal with shell banks?
- d) Does AUSTRAC keep any intelligence on foreign cash dealers who trade with shell banks?
- e) Why did Australia fail to comply with FATF recommendations concerning shell banks?
- f) What steps are AUSTRAC now taking to address this non-compliance? (Please detail; if none, why not?)

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

- a) Under the *Banking Act 1959* financial institutions must be authorised by APRA to carry on a banking business in Australia. APRA's "Guidelines on Authorisation of deposit-taking institutions" (ADIs) sets out specific criteria to be met by all applicants. These guidelines effectively rule out the establishment of shell banks by ensuring that approved banks have significant capital backing and substantial business plans and competence. Accordingly, the Financial Action Task Force (FATF) Mutual Evaluation Report on Australia notes that Australian authorities do not in practice allow the establishment, or accept the continued operation, of shell banks.
- b) AUSTRAC has not conducted any analysis on this issue at this time.
- c) AUSTRAC has not conducted any analysis on this issue at this time.
- d) No.
- e) The FATF Mutual Evaluation Report notes that Australia's banking authorisation process, under the *Banking Act 1959* and APRA's Guidelines effectively precludes the establishment and operation of shell banks. Australia received a rating of partial compliance for Recommendation 18 because of a lack of explicit provisions prohibiting financial institutions entering into correspondent banking relationships with shell banks.
- f) As part of Australia's current Anti-Money Laundering Reform process, in December 2005 a draft exposure Bill was released for public comment. The exposure Bill's provisions include

prohibitions on financial institutions establishing banking relationships with shell banks or with other financial institutions who accept shell banks as their customers.