

SENATE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE
QUESTIONS ON NOTICE TO ATTORNEY-GENERAL'S DEPARTMENT

RESPONSE TO QUESTIONS ON NOTICE
BY SENATOR LUDWIG

Senator Ludwig asked the following questions:

Question 1

When will the Anti-Money Laundering and Counter-Terrorism Rules be finalised?

Response:

The Government has settled a draft indicative set of AML/CTF Rules with industry which has been available on the AUSTRAC website since 13 July 2006. This draft indicative set of AML/CTF Rules provides prospective reporting entities and customers of prospective reporting entities with an understanding of how obligations under the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006 (AML/CTF Bill) will be carried out.

The Bill is structured in a way which enables AML/CTF Rules to be made where a need is identified. The need to make rules could arise:

- from industry or law enforcement experience in implementing the AML/CTF Bill;
- from identification of circumstances in which activities are being structured in a way designed to avoid the operation of the AML/CTF Bill; or
- because uncertainty has arisen about the meaning and intended operation of the AML/CTF Bill.

Rules relating to those provisions of the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006 which come into effect the day after Royal Assent will be finalised by the end of November 2006. Those Rules relate to reportable details for cross-border movements of physical currency and bearer negotiable instruments and registrable details for providers of designated remittance services.

Rules relating to those provisions which come into effect 6 months after Royal Assent are finalised now, apart from redrafting to align references to provisions with those of the Bill as introduced into the Parliament. These Rules relate to correspondent banking due diligence and are Chapter 7 of the Rules made public on 13 July 2006.

Rules relating to those provisions which come into effect 12 months after Royal Assent will be finalised by 31 March 2006. The most significant of these were made public on 13 July 2006 and only require redrafting to bring them into line with the Bill as introduced. The most significant Rules still waiting to be finalised are those relating to designated business groups and joint AML/CTF programs.

Rules relating to those provisions which come into effect 24 months after Royal Assent will be finalised later in 2007.

Question 2

What is the intended consultation process in relation to the Anti-Money Laundering and Counter-Terrorism Guidelines? How long will the guidelines be available before implementation of the legislation?

Response: AUSTRAC will consult industry on the guidelines, as required by the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006. AUSTRAC is reviewing its consultative processes. There are extensive consultation arrangements already in place, including a Ministerial Advisory Group, which have been used successfully throughout the development of the Bill and the Rules. These arrangements are focussed on the financial sector. Proposals have been put forward by industry to formalise these structures. These proposals need to be further considered, particularly to ensure that the interests of the gaming sector and of business and professional service sectors not included in Tranche 1 reforms but proposed to be included in the Tranche 2 reforms are appropriately included in the consultation arrangements. Those arrangements are expected to be finalised early in 2007.

AUSTRAC will be maintaining its Privacy Consultative Committee and will consult it on both AML/CTF Rules and guidelines.

AUSTRAC is currently finalising a program for priority guidelines. Where guidelines are necessary, they will be available when the relevant AML/CTF Rules are finalised.