

Chapter 2

FINANCIAL TRANSACTION REPORTS ACT 1988

Overview of the FTR Act

2.1 According to the submission from the Attorney-General's Department, the FTR Act

forms one element of a package of relatively recent Commonwealth laws directed specifically at attacking criminal activity through the prevention and detection of offences connected with the cash economy, which notoriously provides almost unlimited scope for the evasion of taxation and is an essential part of the financing and concealing of criminal activity, domestically and internationally. Other elements of this package are the *Telecommunications (Interception) Amendment Act 1987*, the *Mutual Assistance in Criminal Matters Act 1987*, and the *Proceeds of Crime Act 1987*.¹

2.2 In its submission AUSTRAC said that the FTR Act was part of a 'clutch of legislation directed at money laundering and particularly money laundering associated with drug trafficking and tax evasion.'²

2.3 The genesis of the legislation was said to be the work of the Costigan and Stewart Royal Commissions in the 1980s:

Both reports noted that money was moved from the illicit or underground economy into the legitimate economy and that once that had occurred it was virtually impossible to trace the cleansed funds back to the tainted source. Both reports noted that the laundering of funds was greatly facilitated by the widespread use of false name accounts opened with financial institutions.³

¹ Submission No. 35, from Commonwealth Attorney-General's Department, p. 49.

² Submission No. 13, from AUSTRAC, p. 7.

³ Submission No. 13, (AUSTRAC) p. 7.

Requirements of the FTR Act

2.4 The regime imposed by the FTR Act is as follows:

- cash dealers are required to report to AUSTRAC all cash transactions of \$10,000 or more (Section 7 FTR Act);
- members of the public are required to report to Customs (for forwarding to AUSTRAC) all transfers of cash, into and out of Australia, of \$5 000 or more (Section 15 FTR Act);
- cash dealers are required to report to AUSTRAC all suspicious transactions, whether or not involving cash and of any value (Section 16 FTR Act⁴);
- cash dealers are required to verify the identity of signatories to accounts (Part III of the FTR Act). Coupled with this requirement is the prohibition of the opening or operating of an account in a false name (Section 24 FTR Act); and
- cash dealers are required to report to AUSTRAC all telegraphic instructions for the transfer of funds into or out of Australia (Section 17B FTR Act). This requirement commenced on 6 December 1992.

Wire Transfers

2.5 The *Cash Transaction Reports Amendment Act 1991* amended the FTR Act to include a requirement for cash dealers to report international telegraphic transfers, where a customer sends funds in or out of Australia. This reporting requirement commenced on 6 December 1992. Because this requirement is still in its infancy the Committee will not include an evaluation of wire transfer reporting in this report.

⁴ Separate requirements to report suspicious transactions are imposed upon cash dealers by section 243D of the *Australian Securities Commission Law* and by a range of State and Territory legislation.