

Chapter 4

SIGNIFICANT CASH TRANSACTION REPORTS

Statutory Requirements

4.1 Section 7 of the FTR Act requires a cash dealer who is party to a cash transaction involving \$10,000 or more (called a 'significant cash transaction') to report the transaction to the Director of AUSTRAC within the reporting period. If the transaction involves foreign currency the reporting period is by the end of the day following that on which the transaction takes place. In any other case, the reporting period is the at end of 15 days after that on which the transaction takes place.

There are three exceptions to the obligation to report:

- a cash dealer is not required to report an exempt transaction. An exempt transaction is one involving a financial institution and another person and which has been entered in the institution's exemption register or which falls within a class of transactions entered in the exemption register;¹⁸
- a cash dealer is not required to report a transaction which is eligible for exemption when it occurs and becomes an exempt transaction during the reporting period. The transactions which are eligible for exemption are specified at section 10 of the FTR Act; and
- cash dealers who are approved cash carriers are not required to report any significant cash transactions. The Director of AUSTRAC may declare a cash dealer to be an approved cash carrier if the Director is satisfied that:
 - the cash dealer maintains records containing the required details of significant cash transactions to which the cash dealer is a party; and

¹⁸ Section 9 FTR Act.

- the declaration, by the Director of AUSTRAC, of the cash dealer as an approved cash carrier would not be inconsistent with the objects of the Act (section 8 FTR Act).

Approved cash carriers are the only category of cash dealers exempted from reporting all significant cash transactions to which they are party. All other exemptions are based upon the nature of the other party to the transaction or upon the nature of the transaction itself.

Number of Reports Lodged

4.2 The requirement to report significant cash transactions commenced on 1 July 1990. The number of reports lodged until 31 March 1993 was as follows:

Table 4.1 Total Reports to 31 March 1993

1 July 1990 - 30 June 1991	335,632
1 July 1991 - 30 June 1992	702,113 ¹⁹
1 July 1992 - 31 March 1993	569,621 ²⁰
TOTAL	1,607,366

These reports were lodged, in the main, by the four major trading banks (Westpac, NAB, ANZ and the Commonwealth Bank). In more detail²¹, the reports were lodged as follows:

¹⁹ Submission No. 13, (AUSTRAC) p. 28.

²⁰ AUSTRAC Updated Statistics. Document tabled by Director of AUSTRAC at the Committee's public hearings in Sydney on 8 June 1993.

²¹ *ibid.*

Table 4.2 Reports Lodged to 31 March 1993

Cash Transaction Reports	1 July 90 - 30 June 91	1 July 91 - 30 June 92	1 July 92 - 31 March 93
Four major trading banks		627,866	515,235
Other banks		57,295	40,273
Other cash dealers		16,952	14,113
TOTAL	335,632	702,113	569,621

How is the Data Used by Law Enforcement Agencies?

4.3 The material provided through significant cash transaction reports is added to the AUSTRAC database and may be accessed by authorised agencies in the manner described earlier. The evidence provided to the Committee on the usage of FTR data by law enforcement agencies was patchy and inconclusive. This was particularly so for data other than that coming from suspect transaction reports. ATO advised that:

Apart from suspect transaction reports, ATO results from using other types of AUSTRAC information have been minor. This is not to say that information such as significant cash transactions and movements of cash through airports is not useful, but rather to say that we have been concentrating up to now on suspect transactions. As indicated earlier, the ATO is confident that the value of AUSTRAC information will increase exponentially over the coming years as we rise up the learning curve and as the size of the database increases.²²

4.4 Other organisations commented that skill in the usage of FTR data is still evolving. This evidence is discussed later.

²² Submission No. 43, (ATO) p. 6.

Methods of Delivery of Cash Transaction Report Data

4.5 Approximately 90 per cent of significant cash transaction reports are delivered to AUSTRAC in electronic, rather than in paper, format²³. Electronic reporting takes various forms:

- online reporting. This is by means of encrypted, direct link to AUSTRAC via the cash dealer's own computer system;
- magnetic tape reporting. This involves the cash dealer recording the required details of the transactions upon magnetic tapes and sending those tapes to AUSTRAC for downloading onto the AUSTRAC database;
- diskette reporting is similar to the magnetic tape procedure, the difference being that diskettes are used to record the details of the transactions instead of magnetic tapes; and
- electronic data interchange (EDI) procedures are also used. This involves the use by cash dealers of an encrypted electronic mail box system via OTC to report the transactions.²⁴

Cost of Reporting

4.6 Some of the major cash dealers provided information on the compliance costs stemming from the requirements of the FTR Act. This information is discussed in more detail in the chapter on the cost and benefit of the legislation. So far as the cost of significant cash transaction reporting is concerned, the information provided to the Committee is discussed below.

4.7 The ABA conducted a survey in January 1993, covering 18 of its 30 member banks. The survey indicated that the estimated 1993 annual operating cost of significant cash transaction reporting was \$2.5m, broken up as follows:

²³ Submission No. 13, (AUSTRAC) p. 30.

²⁴ *ibid.*

Table 4.3 Annual Operating Cost

Staff Costs	\$2,108,000
Other Branch Costs	\$ 117,000
Other Administrative Costs	\$ 229,000
TOTAL	\$2,454,000²⁵

4.8 CUSCAL estimated that the annual ongoing cost to credit unions of significant cash transaction reporting was \$1m. This information, like the ABA data, was based upon a survey of CUSCAL's member credit unions.²⁶

4.9 The AFC conducted a survey of its member finance companies in January 1993 to estimate the compliance costs of the legislation. So far as significant cash transaction reports are concerned the survey showed that the ongoing cost was estimated to be \$17,830 broken up as follows:

Table 4.4 Compliance Costs

Staff Costs	\$ 7,070
Other Branch Costs	\$ 2,115
Other Administrative Costs	\$ 8,645
TOTAL	\$17,830

The AFC estimated that the cost per report was between \$9 and \$50.²⁷

²⁵ Submission No. 26, (Australian Bankers Association) pp. 13-15. The ABA advised that 'staff expenses' include on-costs and overtime, and relate to costs associated with dealing with customers, data input, ongoing training and branch verification and checking processes. 'Other branch costs' include stationery not otherwise needed. 'Other administrative costs' include legal, management costs and data storage capacity costs. (ABA submission Attachment B.)

²⁶ Submission No. 34, (CUSCAL) p. 3.

²⁷ Submission No. 38, (AFC) pp. 4-5.

4.10 Electronic reporting appears to minimise the cost and inconvenience to cash dealers of lodging significant cash transaction reports. The VCCL noted in its submission that 'there have been significant costs for the banks and other financial institutions in setting up systems to meet the reporting requirements. But with these systems established, the reports are made almost automatically and cause little inconvenience or disruption.'²⁸ AUSTRAC also made the point that the cost to some banks of providing significant cash transaction reports may have been increased through the use of paper based systems.

[Westpac] had the reports prepared by its branches on paper forms and sent to a central point where they were keyed onto diskette for sending to AUSTRAC. Westpac thus honoured an early undertaking by executives of the major banks that they would deliver the data to AUSTRAC by electronic means. Westpac has now moved to a system similar to that of NAB; AUSTRAC and Westpac are monitoring the effectiveness of that. The cost to Westpac of that original paper-based scheme must have been considerable - considering the large number of reports that had to be made and the necessary paperwork to achieve that.²⁹

4.11 Westpac confirmed that electronic reporting does allow cash dealers to minimise the cost of reporting. The bank advised that:

The introduction of electronic reporting reduced the number of Westpac administrative staff by 6. Our research indicates that the savings obtained by these salary cuts overtime, together with the benefits and savings obtained by:

- * increased accuracy of reporting
- * improved productivity for front line staff due to less processing
- * less detail to complete due to data fields prefilled on screens

will outweigh the initial outlay to install the system.³⁰

4.12 AFC agreed that compliance costs can be lowered markedly through the use of computer aided processes (and increased markedly if manual processes must be used):

²⁸ Submission No. 12, (VCCL) p. 15.

²⁹ Submission No. 13 (AUSTRAC) p. 37.

³⁰ Submission No. 56, (Westpac) p. 1.

... the cost incurred by an institution in compliance with legislative requirements are essentially correlated to the effectiveness and efficiency of processes employed in meeting legal (or for that matter, business) requirements and the extent of automation/computerisation utilised within the relative processing tasks.

This is particularly evident in one AFC member's case (as an example), where the high unit cost (\$175.00) for suspect transaction reporting is due to very low processing volumes and the application of manual-based processing system with minimal computer intervention. In contrast, the unit costs in relation to account opening and significant cash transaction reporting (\$8.00 and \$9.00 respectively) are significantly reduced due to the high processing volumes which are supported by high level of computer-based processing with minimal levels of manual intervention in the overall processes.³¹

Erroneous Data

4.13 Although electronic reporting does offer an advantage to cash dealers in terms of lower costs, there are difficulties stemming from its use. Initially there was a problem with transactions being reported incorrectly as significant cash transactions. Data provided by AUSTRAC indicated the magnitude of this problem. The Committee was advised that this problem arose because of the variation between the concept of 'cash' in the FTR Act (which is defined to mean the coin and paper money of Australia or a foreign country) and the notion of 'cash' in bank parlance (where the expression includes other transactions, such as transfers between accounts and certain types of cleared cheques).³²

4.14 The problem was clearly a major one. AUSTRAC established a 'clean-up' task force to address the non-cash issue. The banks concerned were required to audit reports lodged, and to introduce computing changes to eliminate the cause of the problem. Large numbers of reports were deleted from the AUSTRAC database³³:

³¹ Submission No. 53, (AFC) p. 1.

³² Submission No. 13, (AUSTRAC) p. 34.

³³ Submission No. 13, (AUSTRAC) p. 35.

Table 4.5 Reports Deleted from AUSTRAC Database

Significant Cash Transaction Reports	Total reported	Later deleted	Remainder
1990/91	429,685	94,053 (21.9%)	335,632
1991/92	763,696	61,583 (8.1%)	702,113
TOTAL	1,193,381	155,636 (13.0%)	1,037,745

Civil Liberties Issues

4.15 Legislation requiring a bank or other financial institution to report transactions with its customers because they are in cash and exceed a monetary limit does erode banker-customer confidentiality and impinges on their civil liberties. The VCCL noted the civil liberties issues but also acknowledged the sound reason for requiring the reporting of such transactions:

From the civil liberties point of view, such legislation is therefore intrinsically repugnant. However, the evidence of the Costigan and Stewart Royal Commissions revealed that widespread tax avoidance, money laundering and other criminality were carried on in the cash economy. Those Commissions recommended mechanisms for following the money trail to counter this criminality. The obligation to report large cash transactions is the principal such mechanism.

To adhere without reservation to the principle of banker-customer confidentiality in the face of the widespread criminality revealed by the Costigan and Stewart Royal Commissions is not, in VCCL's view, justifiable. Accordingly, VCCL accepts the obligation to report CTRs as required by the Act, subject to certain modifications discussed below. VCCL takes this view not only because of the nature and extent of the evil which CTRs combat, but also because the intrusion into the customer's affairs is limited.³⁴

³⁴ Submission No. 12, (VCCL) p. 16.

Proposals for Reform

4.16 VCCL stated that, over time, inflation will erode the present threshold (ie \$10,000) for the reporting of significant cash transactions. It argued that on a projection of average CPI increases of 4 per cent pa for the rest of the decade, the reportable threshold in the year 2000 would be approximately 6,900 1990 dollars. Accordingly, VCCL recommended that the threshold for significant cash transaction reports should be indexed in 1990 dollars and adjusted at intervals (not exceeding five years) to be determined following discussions with the banks.³⁵ A similar recommendation was made by the Privacy Commissioner³⁶ who said that indexation will ensure that transaction reporting remains 'significant' in times of high inflation.

4.17 AUSTRAC did not oppose indexation in principle, but pointed out that it should occur infrequently:

If you³⁷ are going to increase [the threshold], I would suggest that it be indexed in some way. We would hope that it be done in big licks rather than in little ones - and not too quickly. Generally, we agree with Mr Dupé's observations that anything like this incurs cost, particularly for those in the financial sector and AUSTRAC as well which has significant computer applications.³⁸

The Importance of Containing Costs

4.18 The cost of compliance for cash dealers loomed large in the evidence provided to the Committee. There is no doubt that the compliance costs have proven to be far greater than were anticipated by the Government when the legislation was introduced in 1987. On that occasion the Minister stated that 'the Bill will have only a modest impact on cash dealers required to report cash transaction information as the legislation provides sufficient flexibility to enable the Director of the Agency to develop

³⁵ Submission No. 12, (VCCL) pp. 17-18.

³⁶ Submission No. 41, (Privacy Commissioner) p. 13.

³⁷ ie the Committee.

³⁸ Evidence (Mr Coad) p. 35.

the most cost-effective measures for cash dealers to record and communicate information to the Agency.³⁹

4.19 In fact the compliance costs for cash dealers have been substantial. As is discussed in more detail later in this report, the costs associated with the account opening procedures and suspect transaction reporting have been the major components of these costs. However, the cost of reporting cash transactions of \$10,000 and above has been a smaller, but not insignificant, component of the total compliance costs.

4.20 Indexation of the reporting threshold would itself add to the cost of compliance, because of the need to rewrite computer software for electronic reporting. This was recognized by the VCCL who commented that:

Indexation would require cash dealers to make periodic adjustments to their reporting systems. There could be inconvenience and expense involved in this so it should not necessarily be annual. Instead, indexation should occur at regular intervals which could be timed to coincide with necessary modifications to reporting systems.⁴⁰

4.21 On the other hand, to leave the threshold indefinitely at present levels will, of itself, add to cost as more and more transactions are caught by the reporting requirement. The AAPBS stated that:

a reduction in the existing \$10,000 threshold will mean a significant increase in the number of reports coming from building societies. Surveys of members suggest that a reduction from \$10,000 to \$5,000 will lift the number of reports by 75 per cent to 100 per cent. An increase of \$5,000 in the threshold could reduce the number by some 25 per cent.⁴¹

The Committee's Views

4.22 The Committee believes that significant cash transaction reporting should be retained generally in its present format. In part this is

³⁹ *Senate Hansard* 25 November 1987, p. 2413.

⁴⁰ Submission No. 12, (VCCL) p. 18.

⁴¹ Submission No. 40, (AAPBS) p. 1.

because, despite three years of operation, it is not possible to form a concluded view on the forensic value of the information collected by this reporting requirement. The Committee is of the view that efforts must be taken to contain the costs imposed upon cash dealers.

Recommendation 2: The Committee recommends that the reporting threshold for significant cash transaction reports should not be allowed to erode significantly through inflation. To achieve this the threshold should be adjusted periodically after consultation with cash dealers. The aim of the adjustment should be to maintain the threshold at, or near, the present amount in real terms.

Recommendation 3: The Committee recommends that those cash dealers engaging in a sufficient number of significant cash transactions to warrant the measure should endeavour to provide the reports by electronic means.