

Reporting significant cash transactions: from AUSTRAC

The Australian Transaction Reports and Analysis Centre (AUSTRAC) was established under the *Financial Transaction Reports Act 1988 Cth (FTR Act)*. The object of the FTR Act is to facilitate the administration and enforcement of taxation and other laws. AUSTRAC's mission is to make a valued contribution towards a financial environment hostile to money laundering, major crime and tax evasion.

Under section 15A of the *FTR Act*, solicitors are obliged to report to AUSTRAC any "significant cash transactions" to which they are a party in the course of acting as a solicitor. Significant cash transactions are defined as those transactions involving the transfer of currency of not less than AUD\$10,000 in value (or the foreign currency equivalent). All currency transactions of AUD\$10,000 or more entered into by or on behalf of a solicitor, a solicitor corporation, or a partnership of solicitors, in the course of professional practice are subject to these reporting obligations. There are significant penalties for non-compliance.

In addition, if a solicitor undertakes any of the business activities outlined within the definition of 'cash dealer' in s3 of the *FTR Act*, for example is a trustee or manager of a unit trust, an insurance intermediary or a remittance dealer, they will be subject to all the reporting obligations of a cash dealer. Cash dealers are required to report international funds transfer instructions and suspect transactions as well as significant cash transactions to AUSTRAC.

In addition, they must verify the identity of signatories to any accounts in accordance with s18 of the *FTR Act*.

Analysis of the AUSTRAC database reveals instances of banks reporting significant cash transactions involving solicitors, which the solicitors have failed to report to AUSTRAC. This could potentially indicate a significant degree of non-compliance with the *FTR Act* on the part of solicitors. Under sections 27D and 27E of the *FTR Act*, AUSTRAC may conduct inspections of a solicitor's premises for the purpose of monitoring compliance with section 15A. Because of the indications of significant under-reporting, AUSTRAC has included a focus on solicitors in its current compliance monitoring plan. It should be noted section 31 of the *FTR Act* states it is an offence to structure transactions for the sole or dominant purpose of avoiding a significant cash transaction report.

In our commitment to reduce the amount of time and paper work required to comply with the *FTR Act*, AUSTRAC has recently introduced a new data delivery system. This new system makes two major

improvements: the reporting forms have been redesigned so that they are machine scannable allowing for greater efficiency in form processing, and we have developed a web based version of the Electronic Data Delivery System (EDDS). The new version of the paper forms replace all previous versions and guidelines for completion will be sent with any forms order. EDDS Web is a secure connection to be accessed by username and passwords and is capable of supporting digital certificates. It will be released for general consumption in the third quarter of 2001.

PLEASE NOTE: Old versions of paper forms will not be accepted by AUSTRAC after 31 August 2001.

*For further information regarding solicitor obligations, to order the new reporting forms and or to register your interest in the EDDS Web system, or for any other information, please do not hesitate to contact the AUSTRAC Help Desk on 1800 021 037, 02 9950 0827 or by e-mail on help_desk@austrac.gov.au. There is also extensive information, including a copy of the *FTR Act*, available on our Internet site at www.austrac.gov.au*

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