

Financial Transaction Reports Amendment Regulations 2001 (No. 1) 2001 No. 64

EXPLANATORY STATEMENT

Statutory Rules 2001 No. 64

Issued By the Authority of the Minister for Justice and Customs

Financial Transaction Reports Act 1988

Financial Transaction Reports Amendment Regulations 2001 (No. 1)

Section 43 of the *Financial Transaction Reports Act 1988* (the Act) provides that the GovernorGeneral may make regulations for the purposes of the Act.

Section 42A of the Act provides that the regulations may amend Schedules 1, 2, 3, 3A or 4 of the Act.

Under section 16 of the Act, a cash dealer is required to prepare a report of a 'suspect transaction' which the cash dealer is a party to, and to communicate the information in that report to the Director of the Australian Transaction Reports and Analysis Centre (AUSTRAC). A cash dealer must prepare such a report where the cash dealer has reasonable grounds to suspect that information which the cash dealer has concerning the transaction may be:

- relevant to investigation of an evasion, or attempted evasion, of a taxation law;
- relevant to investigation of, or prosecution of a person for, an offence against a law of the Commonwealth or of a Territory; or
- of assistance in the enforcement of the *Proceeds of Crime Act 1987* or the Proceeds of Crime Regulations 1987.

Under subsection 16(2) of the Act, the report shall, amongst other things, "contain the reportable details of the transaction". The "reportable details" in relation to a transaction are defined in subsection 16(6) as the details referred to in Schedule 4 of the Act.

The purpose of the Regulations is to amend regulation 15 of the Financial Transaction Reports Amendment Regulations 1990 to add a requirement in Schedule 4 of the Act to include information in the suspect transaction report about another financial institution or foreign financial institution involved in the suspect transaction, where it involves a cheque, transfer of currency, or the purchase or sale of any security.

Under the new Regulations, a cash dealer is required to inform AUSTRAC of a suspect transaction involving, for example, the transfer of currency from an Australian financial institution to a foreign financial institution located in a country identified as having tax havens, organised crime groups or drug traffickers. Such information will assist AUSTRAC to track the proceeds of crime where those proceeds have been transferred out of Australia.

The Amendments

Regulation 1 is a formal clause providing for the citation of these amending Regulations.

Regulation 2 provides that these Regulations commenced upon gazettal.

Regulation 3 is also a formal clause providing for amendment of the Regulations as set out in Schedule 1 to the amending regulations.

Schedule 1 Amendments

Item 1 omits every item after item 8 in regulation 15.

Item 9 in regulation 15 is based on the former item 9 with the exception of paragraph (c), which provides that, if a cheque is part of the suspect transaction, the reportable details include the name and branch of the financial institution or foreign financial institution on which the cheque is drawn, and the country in which the branch is located.

Item 10 in regulation 15 is an additional item which provides that, if a purchase or sale of security forms part of the suspect transaction, the reportable details include:

- the name of the payee, the favouree or the beneficiary of security (if any); and
- the name and branch of the financial institution or foreign financial institution involved in the purchase or sale, and the country in which the branch is located.

Item 11 in regulation 15 is an additional item which provides that, if a transfer of currency, within a financial institution or from a financial institution or foreign financial institution to another financial institution or foreign financial institution, forms part of the suspect transaction, the reportable details include:

- the name of the payee, the favouree or the beneficiary of the transfer (if any); and
- the name and branch of the financial institution involved in the transfer, and the country in which the branch is located.

Items 12 to 17 in regulation 15 are the former items 10 to 15.

The Regulations commenced on gazettal.