



12 August 2019

Manager
Black Economy Division
Langton Crescent
Parkes ACT 2600

By email: blackeconomy@treasury.gov.au

Dear Manager

Currency (Restrictions on the Use of Cash) Bill 2019

Thank you for the opportunity to provide comments on Treasury's exposure draft legislation and explanatory materials for the introduction of an economy-wide cash payment limit of \$10,000 for payments made or accepted by businesses for goods and services.

The Australian Banking Association (**ABA**) supports the Government's introduction of an economy-wide cash payment limit to businesses for goods and services. Having a taxation system that is robust and one that meets community expectations is vital and we recognise the importance of this initiative to the integrity of our tax system.

The ABA acknowledges that the exposure draft legislation and explanatory materials have addressed the concerns we raised in our previous submission dated 29 June 2018, to the Treasury consultation paper on the introduction of an economy-wide cash limit. We note that the current exposure draft and explanatory materials have not introduced additional reporting or compliance on financial institutions beyond those that currently exist under the Anti-Money Laundering and Counter-Terrorism Financing (**AML/CTF**) regime. Furthermore, we welcome the exclusion of financial institutions and their cash distributions from the cash payment limit and acknowledge that the exposure draft legislation will only apply to payments and not to customer withdrawals of over \$10,000 from banks.

However, following the release of this exposure draft legislation, the ABA raises a concern with the lack of clarity of how the cash payment limit legislation will interact with section 41 of the AML/CTF Act¹ and the unintended regulatory burden this may impose on the Australian Transaction Reports and Analysis Centre (**AUSTRAC**). Under section 41 of the AML/CTF Act, reporting entities are required to submit a report to AUSTRAC any time the reporting entity suspects that it has information that is potentially relevant to the future investigation of an offence against any law. More specifically, the AML/CTF Act requires reporting entities to submit a Suspicious Matter Report (**SMR**) if the reporting entity suspects on reasonable grounds that the information that the reporting entity has regarding the service may be relevant to an investigation².

With the introduction of the new cash payment limit legislation, there is significant uncertainty across financial institutions as to their obligations for SMR reporting related to cash deposits. This is based on the fact that given the introduction of the new offences related to the use of cash payments, there may be significantly greater scope for a reporting entity to form a suspicion that information it has may be relevant to an investigation of an offence. This could result in AUSTRAC receiving unnecessary SMRs in the absence of any guidance and clarity in the explanatory materials.

Given the broad scope of section 41 of the AML/CTF Act and the range of new offences being created around the use of cash through this legislation, to avoid any unintended consequences, financial institutions seek guidance and clarity from AUSTRAC on when an SMR must be reported in relation to cash deposits, and what level of investigation a reporting entity should carry out into the circumstances of that cash deposit.

¹ Reports of suspicious matter – s41 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

² Section 41(1)(f)(iii) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.



Australian Banking Association

The ABA would welcome the opportunity to engage with AUSTRAC, Treasury and the Department of Home Affairs on SMR reporting expectations to remove any ambiguity that currently exists. Thank you for the opportunity to provide comments on the exposure draft legislation. If you have any questions, please contact me on the details below.

Yours sincerely

Signed by

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