

Annex 6

memorandum of understanding



Australian Government
Australian Transaction Reports
and Analysis Centre

Memorandum of Understanding

between

**the Chief Executive Officer of the Australian Transaction Reports
and Analysis Centre**

and

the Inspector-General of Intelligence and Security

**regarding access to and use of AUSTRAC information or documents
containing AUSTRAC information**

August 2007

Interpretation

1. For the purposes of this Memorandum of Understanding (MOU) unless the contrary appears

AML/CTF Act means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

ASIO means the Australian Security Intelligence Organisation.

ASIO Act means the *Australian Security Intelligence Organisation Act 1979*.

ASIS means the Australian Secret Intelligence Service.

AUSTRAC means the Australian Transaction Reports and Analysis Centre.

AUSTRAC CEO means the Chief Executive Officer of AUSTRAC.

Director-General of Security means the Director-General of ASIO.

FTR Act means the *Financial Transaction Reports Act 1988*.

IGIS means the Inspector-General of Intelligence and Security.

IGIS Official means an authorised specified official as per section 126(1) of the AML/CTF Act.

Inspector-General means Inspector-General of Intelligence and Security.

IGIS Act means the *Inspector-General of Intelligence and Security Act 1986*.

IS Act means the *Intelligence Services Act 2001*.

Objective

2. AUSTRAC and the Inspector-General have entered into this MOU to facilitate a cooperative framework by which both parties will work together to effectively perform their respective functions within the terms of the applicable law.

3. This MOU is entered into having regard to:

- The AML/CTF Act.
- The IGIS Act.
- The ASIO Act.
- The *Attorney-General's Guidelines* in relation to the performance by ASIO of its functions.
- The IS Act.
- The Privacy Rules issued under section 15 of the IS Act.

- The FTR Act.
 - The MOU between the AUSTRAC CEO and the Director-General of Security regarding access to and use of AUSTRAC information¹ or documents containing AUSTRAC information.
 - The MOU between the AUSTRAC CEO and the Director-General of the ASIS regarding access to and use of AUSTRAC information or documents containing AUSTRAC information.
4. The agencies do not intend this MOU to create legally binding obligations between them.

Commencement

5. This MOU comes into effect on the day of signing by the AUSTRAC CEO and the Inspector-General.
6. Upon signing of this MOU, the former MOU titled “Memorandum of Understanding between the Director, Australian Transaction Reports and Analysis Centre and the Inspector-General of Intelligence and Security” which was signed on 7 September 2000 will be revoked.

Role of the Inspector-General

7. The Inspector-General will monitor compliance by ASIO and ASIS with:
- The AML/CTF Act.
 - The *Attorney-General's Guidelines* in relation to the performance by ASIO of its functions.
 - The IS Act.

¹ AUSTRAC information, as defined in the AML/CTF Act means:

- a) eligible collected information; or
 b) a compilation by the AUSTRAC CEO of eligible collected information; or
 c) an analysis by the AUSTRAC CEO of eligible collected information.

Eligible collected information, as defined in the AML/CTF Act means:

- a) information obtained by the AUSTRAC CEO under:
 (i) this Act; or
 (ii) any other law of the Commonwealth; or
 (iii) a law of a State or Territory; or
 (b) information obtained by the AUSTRAC CEO from a government body; or
 (c) information obtained by an authorised officer under Part 13, 14 or 15;
 and includes FTR information (within the meaning of the FTR Act).

- The Privacy Rules issued under section 15 of the IS Act.
 - The FTR Act.
 - The MOU between the AUSTRAC CEO and the Director-General of Security regarding access to and use of AUSTRAC information or documents containing AUSTRAC information.
 - The MOU between the AUSTRAC CEO and the Director-General of the ASIS regarding access to and use of AUSTRAC information or documents containing AUSTRAC information.
8. The Inspector-General will review 'Online Usage Statistical Reports', in relation to authorised online access officers from ASIO and ASIS to monitor online access to AUSTRAC information by these agencies.
 9. Where the Director-General of Security or the Director-General of ASIS makes a request in writing to the AUSTRAC CEO for access to information on parameters wider than those available through online access, the AUSTRAC CEO may agree to such a request. The AUSTRAC CEO will notify the Inspector-General of any such wider search requests, for the purposes of carrying out the Inspector-General's duties.
 10. The Inspector-General agrees to provide to the Attorney-General and disseminate to the AUSTRAC CEO, an annual compliance statement in relation to ASIO's compliance with the Attorney-General's Guidelines, the AML/CTF Act, the FTR Act and the MOU between the AUSTRAC CEO and the Director-General of Security regarding access to and use of AUSTRAC information or documents containing AUSTRAC information.
 11. The Inspector-General agrees to provide to the Minister for Foreign Affairs and disseminate to the AUSTRAC CEO, an annual compliance statement in relation to ASIS's compliance with the AML/CTF Act, the FTR Act, the IS Act, ASIS's Privacy Rules and the MOU between the AUSTRAC CEO and the Director-General of ASIS regarding access to and use of AUSTRAC information or documents containing AUSTRAC information.

Access to AUSTRAC information

12. Access to AUSTRAC information by the Inspector-General or an IGIS official is made in accordance with sub-section 126(1) of the AML/CTF Act whereby the AUSTRAC CEO or a delegate may, in writing, authorise specified officials or a specified class of officials of a specified designated agency to have access to AUSTRAC information for the purposes of performing the agency's functions and exercising the agency's powers.
13. The AUSTRAC CEO or a delegate has signed an "Instrument of Authorisation" detailing the specified officials assisting the Inspector-General (IGIS officials) that have access to AUSTRAC information for the purpose of performing the functions of the Inspector-General and exercising the powers of the Inspector-General.
14. The AUSTRAC CEO will provide the Inspector-General with separate 'Online Statistical Reports' in relation to ASIO authorised online access officers and ASIS authorised online access officers, on a quarterly basis or more often if requested by the Inspector-General. (These Reports give the date and time each search is conducted for each ASIO and ASIS online access officer, the supporting authorisation number entered by the ASIO or ASIS officer, the information entered for search purposes and the type of searches conducted by that officer).
15. The AUSTRAC CEO agrees to provide the Inspector-General with details of alerts placed on the AUSTRAC system by ASIO or ASIS on a quarterly basis or more often if requested by the Inspector-General. This list would include the details of the alert requested, the date this alert was activated and the date these alerts were removed from the AUSTRAC database.
16. The AUSTRAC CEO and the Inspector-General acknowledge that for the purposes of performing the functions of the Inspector-General and exercising the powers of the Inspector-General, IGIS officials will have access to further classes of AUSTRAC information other than the 'Online Statistical Reports' and alert details disseminated to ASIO and ASIS by AUSTRAC. Accordingly the "Instrument of Authorisation" sets out access to all classes of AUSTRAC information.

Administrative Arrangements for Receipt of AUSTRAC information

17. In addition to IGIS officials, all other staff from the Inspector-General's office shall be able to accept delivery of AUSTRAC information delivered by safe-hand to the office, sign for this safe-hand material and log its receipt in the office register.
18. To ensure that all IGIS officials and staff are aware of their obligations, the Inspector-General will brief all IGIS officials and staff on the specific requirements of accepting delivery of AUSTRAC information.

Communication of AUSTRAC information

19. The Inspector-General and IGIS officials may disclose AUSTRAC information for the purposes of, or in connection with, the performance of their duties.
20. The AUSTRAC CEO agrees to provide to the Inspector-General a current list of ASIO and ASIS officials authorised to access AUSTRAC information pursuant to sub-section 126(1) of the AML/CTF Act.

Privacy and Security

21. An IGIS official is bound by the secrecy provisions contained in section 34 of the *IGIS Act*.
22. An IGIS official cannot disclose AUSTRAC information except where they are permitted to do so in accordance with sections of the AML/CTF Act.
23. An IGIS official accessing AUSTRAC information must ensure that the information is protected by such security safeguards as is reasonable in the circumstances, against:
 - a) loss, unauthorised access, unauthorised use or unauthorised disclosure; and
 - b) modification or other misuse.

Training and Support

24. The AUSTRAC CEO and the Inspector-General will, to the extent that they can reasonably do so, assist each other in carrying out their respective tasks under this MOU.

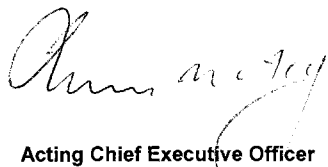
25. The AUSTRAC CEO agrees to provide training and support to the Inspector-General and IGIS officials to assist them to understand the AUSTRAC database and the ways in which they might monitor access by ASIO and ASIS and the use of AUSTRAC information as described in this MOU.

Variation

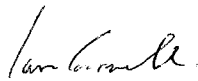
26. Any variation to this MOU will require the issue of a new MOU signed by the AUSTRAC CEO and the Inspector-General.

Termination

27. This MOU will remain operative until replaced by a new MOU on the same subject matter or terminated. Either the AUSTRAC CEO or the Inspector-General may terminate the MOU at any time by written notice.



Acting Chief Executive Officer
Australian Transaction Reports
and Analysis Centre



**Inspector-General of
Intelligence and Security**

Date *29 August, 2007*

Date *29 August 2007*