

# Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)



- F2020C00298

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## Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)

made under section 229 of the

*Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

### Compilation No. 59

**Compilation date:** 16 April 2020

**Includes amendments up to:** *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2020 (No. 1)* (F2020L00427)

Prepared by the Australian Transaction Reports and Analysis Centre (AUSTRAC)

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## **Name of Instrument** [see Note 1]

This Instrument is the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*.

## **Rules**

The *Anti-Money Laundering and Counter-Terrorism Financing Rules* are set out in this Instrument.

## **Introduction**

1.1.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (AML/CTF Rules) are made pursuant to section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act). Section 229 of the AML/CTF Act empowers the AUSTRAC CEO to make rules prescribing matters required or permitted by the AML/CTF Act to be prescribed by AML/CTF Rules. This Chapter commences on 1 June 2014.

## **Key terms and concepts**



1.2.1 In these Rules:

**accredited translator** means:

- (1) a person currently accredited by the National Accreditation Authority for Translators and Interpreters Ltd. (NAATI) at a level of Professional Translator, or above, to translate from a language other than English into English; or
- (2) a person who currently holds an accreditation that is consistent with the standard specified in (1).

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

**AML/CTF program** means an anti-money laundering and counter-terrorism financing program as defined in section 83 of the AML/CTF Act.

**Australian Government Entity** means:

- (1) the Commonwealth, a State or a Territory; or
- (2) an agency or authority of:
  - (a) the Commonwealth; or
  - (b) a State; or
  - (c) a local governing body established by or under a law of the Commonwealth, a State or Territory, other than a body whose sole or principal function is to provide a particular service, such as the supply of electricity or water;

**beneficial owner:**

- (1) *of a person who is a reporting entity*, means an individual who owns or controls (directly or indirectly) the reporting entity;
- (2) *of a person who is a customer of a reporting entity*, means an individual who ultimately owns or controls (directly or indirectly) the customer;
- (3) In this definition: *control* includes control as a result of, by means of, trusts, agreements, arrangements, understandings and practices, whether or not having legal or equitable force and whether or not based on legal or equitable rights, and includes exercising control through capacity to determine decisions about financial and operating policies; and
- (4) In this definition: *owns* means ownership (either directly or indirectly) of 25% or more of a person.

**Note:** The definition 'control test' does not apply to this definition.

**certified copy** means a document that has been certified as a copy of an original document by one of the following persons:

- (1) a person who, under a law in force in a State or Territory

is currently licensed or registered to practise in an occupation listed in Part 1 of Schedule 2 of the *Statutory Declarations Regulations 2018*;

- (2) a person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described);
- (3) a person listed in Part 2 of Schedule 2 of the *Statutory Declarations Regulations 2018*. For the purposes of these Rules, where Part 2 uses the term '5 or more years of continuous service', this should be read as '2 or more years of continuous service';
- (4) an officer with, or authorised representative of, a holder of an Australian financial services licence, having 2 or more years of continuous service with one or more licensees;
- (5) an officer with, or a credit representative of, a holder of an Australian credit licence, having 2 or more years of continuous service with one or more licensees;
- (6) a person in a foreign country who is authorised by law in that jurisdiction to administer oaths or affirmations or to authenticate documents.

*Note: The Statutory Declarations Regulations 2018 are accessible through the Commonwealth of Australia law website, [www.legislation.gov.au](http://www.legislation.gov.au)*

**certified extract** means an extract that has been certified as a true copy of some of the information contained in a complete original document, by one of the persons described in paragraphs (1)-(6) of the definition of 'certified copy' in paragraph 1.2.1 of these Rules.

**correspondent banking risk** means the money laundering or terrorism financing risk a financial institution may reasonably expect in respect of a correspondent banking relationship.

**domestic company** means a company that is registered under the *Corporations Act 2001* (other than a registered foreign company).

**domestic listed public company** means a domestic company that is a listed public company.

**domestic stock exchange** means a financial market prescribed by regulations made for the purposes of the definition of 'prescribed financial market' in the *Corporations Act 2001*.

**domestic unlisted public company** means a domestic company that is not a listed public company.

**foreign company** means a body corporate of the kind described in paragraph (a) of the definition of 'foreign company' in the *Corporations Act 2001*.

**foreign listed public company** means a foreign company that is a listed public company.

**KYC information** means 'know your customer information' and may include information in relation to matters such as:

(1) *In relation to a customer who is an individual:*

- (a) the customer's name;
- (b) the customer's residential address;
- (c) the customer's date of birth;
- (d) any other name that the customer is known by;
- (e) the customer's country(ies) of citizenship;
- (f) the customer's country(ies) of residence;
- (g) the customer's occupation or business activities;
- (h) the nature of the customer's business with the reporting entity – including:
  - (i) the purpose of specific transactions; or
  - (ii) the expected nature and level of transaction behaviour;
- (i) the income or assets available to the customer;
- (j) the customer's source of funds including the origin of funds;
- (k) the customer's financial position;
- (l) the beneficial ownership of the funds used by the customer with respect to the designated services; and
- (m) the beneficiaries of the transactions being facilitated by the reporting entity on behalf of the customer including the destination of funds.

(2) *In relation to a customer who is a company:*

- (a) the full name of the company as registered by ASIC;
- (b) the full address of the company's registered office;
- (c) the full address of the company's principal place of business (if any);
- (d) the ACN issued to the company;
- (e) whether the company is registered by ASIC as a proprietary company or a public company;
- (f) the name of each director of the company;
- (g) the full business name (if any) of the company as registered under any State or Territory business naming legislation;
- (h) the date upon which the company was registered by ASIC;
- (i) the name of any company secretary;
- (j) the nature of the business activities conducted by the company;
- (k) (without limiting the possible application of other items in this definition to a registered foreign company) if the

company is a registered foreign company:

- (i) the full address of the company's registered office in Australia;
  - (ii) the full address of the company's principal place of business in Australia (if any) or the full name and address of the company's local agent in Australia;
  - (iii) the ARBN issued to the company;
  - (iv) the country in which the company was formed, incorporated or registered;
  - (v) whether the company is registered by the relevant foreign registration body and if so whether it is registered as a proprietary or private company;
  - (vi) the name of the relevant foreign registration body;
  - (vii) any identification number issued to the company by the relevant foreign registration body upon the company's formation, incorporation or registration;
  - (viii) the date upon which the company was formed, incorporated or registered in its country of formation, incorporation or registration;
  - (ix) the full address of the company in its country of formation, incorporation or registration as registered by the relevant foreign registration body;
- (l) (without limiting the possible application of other items in this definition to an unregistered foreign company) the company is an unregistered foreign company:
- (i) the full name of the company;
  - (ii) the country in which the company was formed, incorporated or registered;
  - (iii) whether the company is registered by the relevant foreign registration body and if so:
    - (A) any identification number issued to the company by the relevant foreign registration body upon the company's formation, incorporation or registration;
    - (B) the full address of the company in its country of formation, incorporation or registration as registered by the relevant foreign registration body; and
    - (C) whether it is registered as a proprietary or private company;
  - (iv) the full address of the company's principal place of business in that country;
  - (v) the name of the relevant foreign registration body;
  - (vi) the date upon which the company was formed, incorporated or registered in its country of formation, incorporation or registration;

- (vii) the full address of the company's principal place of business in that country; and
  - (m) the name and address of any beneficial owner of the company.
- (3) In relation to a customer who is a trustee of a trust:
  - (a) the full name of the trust;
  - (b) the full business name (if any) of the trustee in respect of the trust;
  - (c) the type of the trust;
  - (d) the country in which the trust was established;
  - (e) if any of the trustees is an individual – in respect of those individuals, the information required to be collected from an individual under the reporting entity's customer identification program in respect of individuals;
  - (f) if any of the trustees is a company – in respect of those companies, the information required to be collected from a company under the reporting entity's customer identification program in respect of companies;
  - (g) the full name and address of any trustee in respect of the trust;
  - (h) the full name of any beneficiary in respect of the trust;
  - (i) if the terms of the trust identify the beneficiaries by reference to membership of a class – details of the class;
  - (j) the State or Territory in which the trust was established;
  - (k) the date upon which the trust was established;
  - (l) a certified copy or certified extract of the trust deed and any amendments;
  - (m) the full name of the trust manager (if any) or settlor (if any) in respect of the trust.
- (4) *In relation to a customer who is a partner of a partnership:*
  - (a) the full name of the partnership;
  - (b) the full business name (if any) of the partnership as registered under any State or Territory business naming legislation;
  - (c) the country in which the partnership was established;
  - (d) in respect of any partner - the information required to be collected from an individual under the reporting entity's customer identification program in respect of individuals;
  - (e) the full name and residential address of any partner;
  - (f) the respective share of each partner in the partnership;
  - (g) the business of the partnership;
  - (h) the State or Territory in which the partnership was established;

established;

- (i) the date upon which the partnership was established and
- (j) a certified copy or certified extract of the partnership agreement.

(5) *In relation to a customer who is an incorporated association:*

- (a) the full name of the association;
- (b) the full address of the association's principal place of administration or registered office (if any) or the residential address of the association's public officer (if there is no such person) the association's president, secretary or treasurer;
- (c) any unique identifying number issued to the association upon its incorporation by the relevant registration body;
- (d) the full name of the chairman, secretary and treasurer or equivalent officer in each case of the association;
- (e) the State, Territory or country in which the association was incorporated;
- (f) the date upon which the association was incorporated;
- (g) the objects of the association;
- (h) a certified copy or certified extract of the rules of the association;
- (i) in respect of any member – the information required to be collected from an individual under the reporting entity's customer identification program in respect of individuals; and
- (j) the full business name, if any, of the association.

(6) *In relation to a customer who is an unincorporated association:*

- (a) the full name of the association;
- (b) the full address of the association's principal place of administration (if any);
- (c) the full name of the chairman, secretary and treasurer or equivalent officer in each case of the association;
- (d) in respect of any member – the information required to be collected from an individual under the reporting entity's customer identification program in respect of individuals;
- (e) the objects of the association;
- (f) a certified copy or certified extract of the rules of the association; and
- (g) the full business name, if any, of the association.

(7) *In relation to a customer who is a registered co-operative:*

- (a) the full name of the co-operative;

- (b) the full address of the co-operative's registered office or principal place of operations (if any) or the residential address of the co-operative's secretary or (if there is no such person) the co-operative's president or treasurer;
  - (c) any unique identifying number issued to the co-operative upon its registration by the relevant registration body;
  - (d) the full name of the chairman, secretary and treasurer or equivalent officer in each case of the co-operative;
  - (e) in respect of any member – the information required to be collected from an individual under the reporting entity's customer identification program in respect of individuals;
  - (f) the full business name, if any, of the co-operative;
  - (g) the State, Territory or country in which the co-operative is registered;
  - (h) the date upon which the co-operative was registered;
  - (i) the objects of the co-operative; and
  - (j) a certified copy or certified extract of the rules of the co-operative.
- (8) *In relation to a customer who is a government body:*
- (a) the full name of the government body;
  - (b) the full address of the government body's principal place of operations;
  - (c) whether the government body is an entity or emanation or established under legislation, of a State, Territory or Commonwealth or a foreign country and the name of that State, Territory or country;
  - (d) information about the ownership or control of a government body that is an entity or emanation or established under legislation of a foreign country; and
  - (e) the name of any legislation under which the government body was established.

***listed public company*** means:

- (1) in the case of a domestic company – a public company that is included in an official list of a domestic stock exchange;
- (2) in the case of a registered foreign company –
  - (a) a public company that is included in an official list of a domestic stock exchange; or
  - (b) a public company whose shares, in whole or in part, are listed for quotation in the official list of any stock or equivalent exchange;
- (3) in the case of an unregistered foreign company – a public company whose shares, in whole or in part, are listed for quotation in the official list of any stock or equivalent exchange.

**ML/TF risk** means the risk that a reporting entity may reasonably face that the provision by the reporting entity of designated services might (whether inadvertently or otherwise) involve or facilitate money laundering or the financing of terrorism.

**Part A** means Part A of a reporting entity's AML/CTF program

**Part B** means Part B of a reporting entity's AML/CTF program

**on-course bookmaker** means a person who carries on a business of a bookmaker or a turf commission agent at a racecourse.

**online gambling service** means a designated service of a kind described in table 3 of section 6 of the AML/CTF Act that is provided to a customer using any of the means referred to in paragraph 5(1)(b) of the *Interactive Gambling Act 2001* and includes an excluded wagering service as defined in section 8 of the *Interactive Gambling Act 2001* but does not include a "telephone betting service" as defined in section 4 of the *Interactive Gambling Act 2001*.

**politically exposed person** means an individual:

- (1) who holds a prominent public position or function in a government body or an international organisation, including:
  - (a) Head of State or head of a country or government;
  - (b) government minister or equivalent senior politician;
  - (c) senior government official; or
  - (d) Judge of the High Court of Australia, the Federal Court of Australia or a Supreme Court of a State or Territory; a Judge of a court of equivalent seniority in a foreign country or international organisation; or
  - (e) governor of a central bank or any other position that has comparable influence to the Governor of the Reserve Bank of Australia; or
  - (f) senior foreign representative, ambassador, or high commissioner; or
  - (g) high-ranking member of the armed forces; or
  - (h) board chair, chief executive, or chief financial officer or any other position that has comparable influence in any State enterprise or international organisation; or
- (2) who is an immediate family member of a person referred to in paragraph (1), including:
  - (a) a spouse; or
  - (b) a de facto partner; or
  - (c) a child and a child's spouse or de facto partner; or
  - (d) a parent; and
- (3) who is a close associate of a person referred to in paragraph (1), which means any individual who is known (having regard to information that is public or readily available) to have:



- (a) joint beneficial ownership of a legal entity or legal arrangement with a person referred to in paragraph or
  - (b) sole beneficial ownership of a legal entity or legal arrangement that is known to exist for the benefit of person described in paragraph (1).
- (4) In these Rules:
- (a) *domestic politically exposed person* means a political exposed person of an Australian government body;
  - (b) *foreign politically exposed person* means a political exposed person of a government body of a foreign country;
  - (c) *international organisation politically exposed person* means a politically exposed person of an international organisation.
- (5) In this definition *international organisation* means an organisation:
- (a) established by formal political agreement by two or more countries and that agreement has the status of international treaty; and
  - (b) recognised in the law of the countries which are members of the organisation.

*Note: The term de facto partner is defined in the Acts Interpretation Act 1901 and the terms 'foreign country' 'government body' are defined in the AML/CTF Act.*

**primary non-photographic identification document** includes

- (1) a birth certificate or birth extract issued by a State or Territory;
- (2) a citizenship certificate issued by the Commonwealth;
- (3) a citizenship certificate issued by a foreign government if it is written in a language that is not understood by the person carrying out the verification, is accompanied by an English translation prepared by an accredited translator;
- (4) a birth certificate issued by a foreign government, the United Nations or an agency of the United Nations that, if written in a language that is not understood by the person carrying out the verification, is accompanied by an English translation prepared by an accredited translator;
- (5) a concession card, as defined from time to time in the *Security Act 1991*, or an equivalent term which expresses the same concept in relation to concession holders.

**primary photographic identification document includes**

- (1) a licence or permit issued under a law of a State or Territory or equivalent authority of a foreign country for the purpose of driving a vehicle that contains a photograph of the person whose name the document is issued;
- (2) a passport issued by the Commonwealth;

- (3) a passport or a similar document issued for the purpose of international travel, that:
  - (a) contains a photograph and either:
    - (i) the signature of the person in whose name the document is issued; or
    - (ii) any unique identifier of the person in whose name the document is issued;
  - (b) is issued by a foreign government, the United Nations or an agency of the United Nations; and
  - (c) if it is written in a language that is not understood by the person carrying out the verification - is accompanied by an English translation prepared by an accredited translator;
- (4) a card issued under a law of a State or Territory for the purpose of proving the person's age which contains a photograph of the person in whose name the document is issued;
- (5) a national identity card issued for the purpose of identification, that:
  - (a) contains a photograph and either:
    - (i) the signature of the person in whose name the document is issued; or
    - (ii) any unique identifier of the person in whose name the document is issued;
  - (b) is issued by a foreign government, the United Nations or an agency of the United Nations; and
  - (c) if it is written in a language that is not understood by the person carrying out the verification - is accompanied by an English translation prepared by an accredited translator.

**public company** means a company other than a proprietary company.

**racecourse** means a place where a race meeting is held by a racing club, and includes adjacent land or premises to which persons attending the meeting have access in connection with the meeting.

**reasonable measures** means appropriate measures which are commensurate with the money laundering or terrorist financing risks.

**registered co-operative** means a body registered under legislation as a co-operative.

**registered foreign company** means a foreign company that is registered under Division 2 of Part 5B.2 of the *Corporations Act 2001*.

**relevant foreign registration body** means, in respect of a registered foreign company or an unregistered foreign company, any government body that was responsible for the formation

any government body that was responsible for the formation, incorporation or registration of that company in its country of formation, incorporation or registration.

**reliable and independent documentation** includes but is not limited to:

- (1) an original primary photographic identification document;
- (2) an original primary non-photographic identification document; and
- (3) an original secondary identification document

*Note: This is not an exhaustive definition. A reporting entity may rely upon other documents not listed in paragraph to (3) above as reliable and independent documents, where that is appropriate having regard to ML/TF risk.*

**secondary identification document** includes:

- (1) a notice that:
  - (a) was issued to an individual by the Commonwealth, State or Territory within the preceding twelve months;
  - (b) contains the name of the individual and his or her residential address; and
  - (c) records the provision of financial benefits to the individual under a law of the Commonwealth, State or Territory (as the case may be);
- (2) a notice that:
  - (a) was issued to an individual by the Australian Taxation Office within the preceding 12 months;
  - (b) contains the name of the individual and his or her residential address; and
  - (c) records a debt payable to or by the individual by or (respectively) the Commonwealth under a Commonwealth law relating to taxation;
- (3) a notice that:
  - (a) was issued to an individual by a local government body or utilities provider within the preceding three months;
  - (b) contains the name of the individual and his or her residential address; and
  - (c) records the provision of services by that local government body or utilities provider to that address to that person.
- (4) In relation to a person under the age of 18, a notice that:
  - (a) was issued to a person by a school principal within the preceding three months;
  - (b) contains the name of the person and his or her residential address; and
  - (c) records the period of time that the person attended the school.

**senior managing official** means an individual who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of a customer of a reporting entity or who has the capacity to affect significantly the financial standing of a customer of a reporting entity.

**totalisator agency board** means a board or authority established, or a company holding a licence, under a law of a State or Territory for purposes that include the purpose of operating a betting service.

**unregistered foreign company** means a foreign company that is not a registered foreign company.

1.2.2 In these Rules, the terms 'ABN', 'ACN', 'ARBN', 'Australian financial services licence', 'ASIC', 'managed investment scheme', 'proprietary company', 'registered office' and 'wholesale client' have the same respective meanings as in the *Corporations Act 2001*.

1.2.3 In these Rules, the terms 'Australian credit licence' and 'credit representative' have the same respective meanings as in the *National Consumer Credit Protection Act 2009*.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

### Definition of 'designated business group'

2.1.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made pursuant to section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of the definition of 'designated business group' in section 5 of the AML/CTF Act.

2.1.2 For the purposes of the definition of 'designated business group' in section 5 of the AML/CTF Act:

(1) an election will be made in accordance with the AML/CTF Rules if it is made on the approved election form and provided to AUSTRAC by the Nominated Contact Officer;

(2) a 'designated business group' is established when the approved form is provided to the AUSTRAC CEO by the Nominated Contact Officer or on such later date as is specified on that form; and

(3) the members of a designated business group must, by their Nominated Contact Officer, notify the AUSTRAC CEO in writing, in the approved form, of any of the

following:

- (a) a withdrawal of a member from the designated business group; or
- (b) an election of a new member; or
- (c) the termination of the designated business group; or
- (d) any other change in the details previously notified to the AUSTRAC CEO in respect of the Nominated Contact Officer or the designated business group;

no later than 14 business days from the date on which withdrawal, election of the new member, termination or change takes effect.

- (4) each member of the designated business group must

- (a) related to each other member of the group with the meaning of section 50 of the *Corporations Act 2006* and either

- (i) a reporting entity; or
- (ii) a company in a foreign country which if it were resident in Australia would be a reporting entity; or

- (b) providing a designated service pursuant to a joint venture agreement, to which each member of the group is a party; or

- (c) able to satisfy the following conditions:

be

- (i) an accounting practice; or
- (ii) a person, other than an individual, which is an accounting practice in (i) controls; or
- (iii) an accounting practice which is providing a designated service pursuant to a joint venture agreement, to which each member of the group is a party; or
- (iv) a person that provides or assists in the provision of a designated service to the customers of the accounting practice;

and either:

- (v) a reporting entity; or
- (vi) an entity in a foreign country which, if it were resident in Australia would be a reporting entity; or

- (d) able to satisfy the following conditions:

be

- (i) a law practice; or
- (ii) a person, other than an individual, which controls the law practice in (i) controls; or
- (iii) a law practice which is providing a designated service pursuant to a joint venture agreement with another law practice which each member of the group is a party;
- (iv) a person that provides or assists in the provision of a designated service to the customers of the law practice;

and either:

- (v) a reporting entity; or
- (vi) an entity in a foreign country which, if it were resident in Australia would be a reporting entity; or

- (e) Subject to the requirements in paragraph 2.1.2A, a reporting entity that provides a registrable designated remittance service, either:

- (i) as a money transfer service provider; or
- (ii) as a representative of a money transfer service provider pursuant to a representation agreement with a money transfer service provider; or
- (iii) as a sub-representative of a money transfer service provider pursuant to a sub-representation agreement with the representative of the money transfer service provider.

2.1.2A The following conditions apply to a reporting entity that elects to form or vary a designated business group with other reporting entities pursuant to subparagraph 2.1.2(4)(e):

- (1) a person who meets the criteria specified at subparagraph 2.1.2(4)(e)(i) may form or vary a designated business group with one of the following:
  - (a) a person or persons with whom they have a representation agreement; or
  - (b)
    - (i) a person with whom they have a representation agreement; and
    - (ii) a person or persons with whom the person described at subparagraph 2.1.2A(1)(b)(i) has a sub-representation agreement.
- (2) a person who meets the criteria specified at subparagraph 2.1.2(4)(e)(ii) may form or vary a designated business group with one of the following:

- (a) the person with whom they have a representation agreement; or
  - (b)
    - (i) the person with whom they have a representation agreement; and
    - (ii) a person or persons who have a representation agreement with the person described at subparagraph 2.1.2A(2)(f) or
  - (c)
    - (i) a person or persons who meet the conditions specified at subparagraph 2.1.2(4)(e)(i) and
    - (ii) with whom they have a sub-representation agreement; or
  - (d)
    - (i) the person with whom they have a representation agreement; and
    - (ii)
      - (A) a person or persons who meet conditions specified at subparagraph 2.1.2(4)(e)(iii); and
      - (B) with whom they have a sub-representation agreement.
- (3) a person who meets the conditions specified at subparagraph 2.1.2(4)(e)(iii) may form or vary a designated business group with one of the following:
- (a) the person with whom they have a sub-representation agreement; or
  - (b)
    - (i) the person with whom they have a sub-representation agreement; and
    - (ii) a person or persons who have a sub-representation agreement with the same person described at subparagraph 2.1.2A(3)(a); or
  - (c)
    - (i) the person with whom they have a sub-representation agreement; and
    - (ii) the person with whom the person described at subparagraph 2.1.2A(3)(a) has a representation agreement; or
  - (d)
    - (i) the person with whom they have a sub-representation agreement; and
    - (ii) the person with whom the person described at subparagraph 2.1.2A(3)(a) has a representation agreement; and
    - (iii) a person or persons who have a sub-

- (iii) a person or persons who have a sub-representation agreement with the same person described at subparagraph 2.1.2A(3)(d)(i).

2.1.3 In this Chapter:

- (1) 'approved election form' means Form 1 attached to these Rules;
- (2) 'approved form' for the purposes of sub-rule 2.1.2 means Form 2 attached to these Rules;
- (3) 'approved form' for the purposes of sub-rule 2.1.3 means Form 3 attached to these Rules;
- (4) 'company' has the same meaning as in the *Corporations Act 2001*;
- (5) 'Nominated Contact Officer' means the holder of the position from time to time of one of the following positions:
  - (a) an 'officer' as defined in the *Corporations Act 2001*, of a member of a designated business group; or
  - (b) the AML/CTF Compliance Officer of a member of a designated business group,where that officer or compliance officer has been appointed by the designated business group to hold the position of the Nominated Contact Officer;
- (6) 'accounting practice' means a business carried on by either of the following:
  - (a) an accountant (however described) that supplies professional accounting services; or
  - (b) a partnership or company that uses accountants (however described) to supply professional accounting services;
- (7) 'law practice' means a business carried on by either of the following:
  - (a) a legal practitioner (however described) that supplies professional legal services; or
  - (b) a partnership or company that uses legal practitioners (however described) to supply professional legal services;
- (8) 'money transfer service' means a service, provided under a single brand, trademark or business name through which registrable designated remittance services are carried out;
- (9) 'money transfer service provider' means a person who under a representation agreement authorises a representative to offer the money transfer service



behalf of the money transfer service provider and engage sub-representatives for the purposes of providing the money transfer service in Australia;

- (10) 'representation agreement' means the written agreement between a money transfer service provider and a representative of the money transfer service provider that states the terms on which the representative offers the money transfer service in Australia;
- (11) 'representative of a money transfer service provider' or 'representative' means a person who offers a money transfer service in accordance with a representation agreement with the money transfer service provider;
- (12) 'sub-representation agreement' means the written agreement between a representative of a money transfer service provider and a sub-representative of a money transfer service provider that states the terms on which the sub-representative provides the money transfer service within Australia;
- (13) 'sub-representative of a money transfer service provider' or 'sub-representative' means a person who is engaged by a representative of a money transfer service provider to provide a money transfer service in accordance with a sub-representation agreement.

## Form 1

### FORM FOR SUB-PARAGRAPH 2.1.2(1) OF THE RULES: ELECTION TO BE A MEMBER OF A DESIGNATED BUSINESS GROUP

For the purposes of the Anti-Money Laundering and Counter-Terrorism Financing Rules made pursuant to section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) and of the definition of 'designated business group' in section 5 of the AML/CTF Act:

I, [name and role/title of Y], hereby elect on behalf of Y, to be a member of [name of Designated Business Group]. I hereby confirm that:

- (a) Y Pty Ltd, is a reporting entity related to each member of [name of Designated Business Group] within the meaning of section 50 of the *Corporations Act 2001*; or
- (b) Y Pty Ltd, is providing a designated service pursuant to a joint venture agreement to which each member of [name of Designated Business Group] is a party; or
- (c) Y Pty Ltd, is a foreign company which, if it were resident in Australia would be a reporting entity, and is, within the meaning of section 50 of the *Corporations Act 2001*, related to [name of related company] which is a member of [name of Designated Business Group] and which is a reporting entity; or

- (d) Y is a reporting entity or is an entity in a foreign country, which if it were resident in Australia would be a reporting entity, and is:
- (i) an accounting practice as defined in Rule 2.1.3(6); or
  - (ii) a person, other than an individual, which the accounting practice in (i) controls; or
  - (iii) an accounting practice which is providing a designated service pursuant to a joint venture agreement, to which each member of the [name of Designated Business Group] group is a party; or
  - (iv) a person that provides or assists in the provision of a designated service to the customers of the accounting practice; or
- (e) Y is a reporting entity or is an entity in a foreign country, which if it were resident in Australia would be a reporting entity, and is:
- (i) a law practice as defined in Rule 2.1.3(7); or
  - (ii) a person, other than an individual, which the law practice in (i) controls; or
  - (iii) a law practice which is providing a designated service pursuant to a joint venture agreement, to which each member of the [name of Designated Business Group] group is a party; or
  - (iv) a person that provides or assists in the provision of a designated service to the customers of the law practice; or
- (f) Y is a reporting entity, and is a money transfer service provider as defined in Rule 2.1.3(9); or
- (g) Y is a reporting entity, and is a representative of a money transfer service provider as defined in Rule 2.1.3(11); or
- (h) Y is a reporting entity, and is a sub-representative of a money transfer service provider as defined in Rule 2.1.3(13).

DATE:

## Form 2

FORM FOR SUB-PARAGRAPH 2.1.2(2) OF THE RULES: FORMATION OF A DESIGNATED BUSINESS GROUP

For the purposes of the Anti-Money Laundering and Counter-Terror Financing Rules made pursuant to section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) and of the definition of 'designated business group' in section 5 of the AML/CTF Act:

I, [name and role/title of X], notify AUSTRAC that [role/title of X] is

Nominated Contact Officer of [name of Designated Business Group] currently hold that position. My contact details are:

Address:

Phone number:

Fax number:

Email address:

I [name] as the Nominated Contact Officer of [name of Designated Business Group] hereby notify AUSTRAC of the establishment of [name of Designated Business Group].

The following have elected to be members of [name of Designated Business Group]:

[name of member]

[name of member]

DATE:

### Form 3

FORM FOR SUB-PARAGRAPH 2.1.2(3) OF THE RULES: VARIATION

For the purposes of the Anti-Money Laundering and Counter-Terrorism Financing Rules made pursuant to section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) and of the definition of 'designated business group' in section 5 of the AML/CTF Act:

I, [Nominated Contact Officer of X], being the Nominated Contact Officer of [name of Designated Business Group] hereby advise the AUSTRAC CEO of the following variations to [name of Designated Business Group]:

- (a) [withdrawal detail];
- (b) [election detail];
- (c) [termination];
- (d) [any other change]

Election forms are attached.

DATE:

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these*

### **Correspondent banking due diligence**

3.1.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made pursuant to section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of paragraphs 97(2)(a) and 98(2)(a), subparagraphs 98(3)(a)(ii) and 98(3)(b)(ii) and subsections 98(4) and 99(1) of the AML/CTF Act.

3.1.2 For the purposes of paragraph 97(2)(a) of the AML/CTF Act, a financial institution (the first financial institution) must carry out an assessment of the following matters, where and to the extent warranted by the risk identified in accordance with subsection 97(1):

- (1) the nature of the other financial institution's business, including its product and customer base;
- (2) the domicile of the other financial institution;
- (3) the domicile of any parent company of the other financial institution;
- (4) the existence and quality of any anti-money laundering and counter-terrorism financing regulation and supervision in the other financial institution's country of domicile;
- (5) the existence and quality of any anti-money laundering and counter-terrorism financing regulation and supervision in the country of domicile of any parent company of the other financial institution - where the parent company has group-wide controls and where the other financial institution operates within the requirements of those controls;
- (6) the adequacy of the other financial institution's controls and internal compliance practices in relation to anti-money laundering and counter-terrorism financing;
- (7) the ownership, control and management structures of the other financial institution and any parent company, including whether a politically exposed person has ownership or control of the other financial institution or any parent company;
- (8) the other financial institution's financial position;
- (9) the reputation and history of the other financial institution;
- (10) the reputation and history of any parent company of the other financial institution;
- (11) whether the other financial institution has been the subject of an investigation, or any criminal or civil proceedings relating to money laundering or terrorism financing.

3.1.3 For the purposes of subsection 99(1) of the AML/CTF Act, the senior officer must have regard to the due diligence assessments carried out for the purposes of paragraph 3.1.2 of these Rules.

3.1.4 For the purposes of paragraph 98(2)(a) of the AML/CTF Act, the first financial institution must carry out regular assessments of

following matters, if warranted by the risk identified in accordance with subsection 98(1):

- (1) the matters specified in paragraph 3.1.2 of these Rules;
- (2) any material changes in respect of the matters specified in paragraph 3.1.2 of these Rules;
- (3) the nature of the other financial institution's ongoing business relationship with the first financial institution, including the types of transactions carried out as part of that relationship;
- (4) any material change in the nature of the other financial institution's ongoing business relationship with the first financial institution, including in respect of the types of transactions carried out as part of that relationship.

3.1.5 In accordance with subsection 98(5) of the AML/CTF Act, the first financial institution is required to determine:

- (1) in respect of each correspondent banking relationship that involves a vostro account that it enters into after the commencement of section 98 – the end of the period referred to in subparagraph 98(3)(a)(ii);
- (2) in respect of each correspondent banking relationship that involves a vostro account that it has entered into before the commencement of section 98 – the end of the period referred to in subparagraph 98(3)(b)(ii); and
- (3) in respect of each of its correspondent banking relationships – the period referred to in subsection 98(4).

3.1.6 In determining the end of a period or a period for the purposes of paragraph 3.1.5 of these Rules, the first financial institution must have regard to the risk identified in accordance with subsection 98(1) of the AML/CTF Act.

**Anti-Money Laundering and Counter-Terrorism Financing Rules in Respect of Paragraph (e) of the Definition of 'Correspondent Banking Relationship' in Section 5 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006***

3.2.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made pursuant to section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of paragraph (e) of the definition of 'correspondent banking relationship' in section 5 of the AML/CTF Act.

3.2.2 For the purposes of paragraph (e) of the definition of correspondent banking relationship in section 5 of the AML/CTF Act, all banking services that do not involve a vostro account are specified.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## Introduction

4.1.1 These Rules are made pursuant to section 229 of the AML/CTF Act for the purposes of paragraphs 36(1)(b), 84(2)(c), 84(3)(b), 85(2)(c) and 85(3)(b), and sections 106, 107 and 108 of the AML/CTF Act. Sections 136 and 137 of the AML/CTF Act apply to each paragraph of this Chapter. They specify the requirement with which Part A or Part B of a reporting entity's standard AML/CTF program or Part A or Part B of a reporting entity's joint AML/CTF program must comply. The primary purpose of Part A of a standard or joint AML/CTF program is to identify, manage and mitigate money laundering or terrorism financing (ML/TF) risk that a reporting entity may reasonably face in relation to the provision of the reporting entity of designated services at or through a permanent establishment in Australia. The sole or primary purpose of Part B is to set out the reporting entity's applicable custom identification procedures.

*Note: Reporting entities that collect information about a customer or a third party will need to consider their obligation under subclause 3.6 of the Australian Privacy Principles, which requires that personal information about an individual must be collected only from the individual unless it is unreasonable or impractical to do so and where it is reasonably necessary for the reporting entity's functions or activities.*

4.1.2 This Chapter does not apply to:

- (1) a pre-commencement customer; or
- (2) a customer who receives a designated service covered by item 40, 42 or 44 of table 1 in section 6 of the AML/CTF Act.

*Note: Subparagraph 4.1.2(1) relates to pre-commencement customers referred to in sections 28 and 29 of the AML/CTF Act.*

4.1.3 For the purposes of these Rules, in identifying its ML/TF risk, a reporting entity must consider the risk posed by the following factors:

- (1) its customer types; including:
  - (a) beneficial owners of customers; and
  - (b) any politically exposed persons;
- (2) its customers' sources of funds and wealth;
- (3) the nature and purpose of the business relationship with its customers, including, as appropriate, the collection of information relevant to that consideration;
- (4) the control structure of its non-individual customers;
- (5) the types of designated services it provides;
- (6) the methods by which it delivers designated services;

- (7) the foreign jurisdictions with which it deals.

*Different requirements with respect to different kinds of customers*

4.1.4 These Rules specify different requirements for AML/CTF programs in relation to different kinds of customers. An AML/CTF program must comply with such requirements to the extent that the reporting entity has a customer of a particular kind. These Rules make provision in respect of the following kinds of customers:

- (1) Individuals – Part 4.2 of these Rules;
- (2) Companies – Part 4.3 of these Rules;
- (3) Customers who act in the capacity of a trustee of a trust – Part 4.4 of these Rules;
- (4) Customers who act in the capacity of a member of a partnership – Part 4.5 of these Rules;
- (5) Incorporated or unincorporated associations – Part 4.6 of these Rules;
- (6) Registered co-operatives – Part 4.7 of these Rules;
- (7) Government bodies – Part 4.8 of these Rules.

*Requirements in respect to Beneficial Owners and Politically Exposed Persons*

4.1.5 These Rules specify different requirements for AML/CTF programs in relation to beneficial owners and politically exposed persons:

- (1) Beneficial Owners – Part 4.12 of these Rules;
- (2) Politically Exposed Persons – Part 4.13 of these Rules.

4.1.6 A reporting entity is only required to apply the requirements specified in subparagraphs 4.4.3(5) and 4.4.5(5), and in Part 4.12 and Part 4.13 of these Rules to a person who becomes a customer after the commencement of those provisions on 1 June 2014.

*Verification*

4.1.7 These Rules also require an AML/CTF program to comply with the requirements of Part 4.9 of these Rules relating to document-based verification and with the requirements of Part 4.10 of these Rules relating to verification from electronic data.

*Agents of customers*

4.1.8 An AML/CTF program must comply with the requirements of Part 4.11 of these Rules in relation to any agent who is authorised to act for or on behalf of a customer in relation to a designated service.

**Applicable customer identification procedure with respect to individuals**

4.2.1 In so far as a reporting entity has any customer who is an individual, an AML/CTF program must comply with the requirements specified in Part 4.2 of these Rules.

4.2.2 An AML/CTF program must include appropriate risk-based systems and controls that are designed to enable the reporting

systems and controls that are designed to enable the reporting entity to be reasonably satisfied, where a customer is an individual, that the customer is the individual that he or she is to be.

#### *Collection of information*

4.2.3 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information about an individual (other than an individual who notifies the reporting entity that he or she is a customer of the reporting entity in his or her capacity as a sole trader):

- (1) the customer's full name;
- (2) the customer's date of birth; and
- (3) the customer's residential address.

4.2.4 An AML/CTF program must include a procedure for the reporting entity to collect at a minimum, the following KYC information about a customer who notifies the reporting entity that he or she is a customer of the reporting entity in his or her capacity as a sole trader:

- (1) the customer's full name;
- (2) the customer's date of birth;
- (3) the full business name (if any) under which the customer carries on his or her business;
- (4) the full address of the customer's principal place of business (if any) or the customer's residential address; and
- (5) any ABN issued to the customer.

4.2.5 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.2.3 or 4.2.4 above, any other KYC information was collected about a customer.

#### *Verification of information*

4.2.6 An AML/CTF program must include a procedure for the reporting entity to verify, at a minimum, the following KYC information about a customer:

- (1) the customer's full name; and
- (2) either:
  - (a) the customer's date of birth; or
  - (b) the customer's residential address.

4.2.7 An AML/CTF program must require that the verification of information collected about a customer be based on:

- (1) reliable and independent documentation;
- (2) reliable and independent electronic data; or
- (3) a combination of (1) and (2) above.

4.2.8 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine



systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.2.6 above, any other KYC information collected about the customer should be verified from reliable and independent documentation, reliable and independent electronic data or a combination of the two.

*Responding to discrepancies*

4.2.9 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to a discrepancy that arises in the course of verifying KYC information collected about a customer so that the reporting entity can determine whether it is reasonably satisfied that the customer is the person that he or she claims to be.

*Documentation-based safe harbour procedure where ML/TF risk is medium or lower*

4.2.10 Paragraph 4.2.11 sets out one procedure for documentation-based verification which a reporting entity may include in an AML/CTF program to comply with its obligations under paragraphs 4.2.3 to 4.2.8, and 4.9.1 to 4.9.3 of these Rules where the relationship with the customer is of medium or lower ML/TF risk. Paragraph 4.2.11 does not preclude a reporting entity from meeting the requirements of paragraphs 4.2.3 to 4.2.8, and 4.9.1 to 4.9.3 of these Rules in another way where the relationship with the customer is of medium or lower ML/TF risk.

4.2.11 An AML/CTF program that requires the reporting entity to do the following will be taken to meet the requirements of paragraphs 4.2.3 to 4.2.8 and 4.9.2 to 4.9.3 of these Rules in respect of a customer, where a reporting entity determines that the relationship with that customer is of medium or lower risk:

- (1) collect the KYC information described in paragraph 4.2.3 to 4.2.4 (as the case may be);
- (2) verify the customer's name and either the customer's residential address or date of birth, or both, from:
  - (a) an original or certified copy of a primary photographic identification document; or
  - (b) both:
    - (i) an original or certified copy of a primary non-photographic identification document; and
    - (ii) an original or certified copy of a secondary identification document; and
- (3) verify that any document produced about the customer has not expired (other than in the case of a passport issued by the Commonwealth that expired within the preceding two years).

*Electronic-based safe harbour procedure where ML/TF Risk is medium or lower*

4.2.12 Paragraph 4.2.13 sets out one procedure for electronic verification which a reporting entity may follow to comply with

obligations under paragraphs 4.2.3 to 4.2.8, and 4.10.1 of the Rules where the relationship with the customer is of medium or lower ML/TF risk. Paragraph 4.2.13 does not preclude a reporting entity from meeting the requirements of paragraphs 4.2.3 to 4.2.8 and 4.10.1 of these Rules in another way where the relationship with the customer is of medium or lower ML/TF risk.

4.2.13 Part B of an AML/CTF program that requires the reporting entity to do the following will be taken to meet the requirements of paragraphs 4.2.3 to 4.2.8 and 4.10.1 of these Rules in respect of a customer, where a reporting entity determines that the relationship with the customer is of medium or lower risk:

- (1) collect the KYC information described in paragraph 4.2.3 or 4.2.4 (as the case may be) about a customer;
- (2) verify, having regard to the matters set out in subparagraph 4.10.2(1):
  - (a) the customer's name; and
  - (b) either:
    - (i) the customer's residential address; or
    - (ii) the customer's date of birth; or
    - (iii) both (i) and (ii); or
  - (c) that the customer has a transaction history for at least the past 3 years.

4.2.14 For subparagraphs 4.2.13(2)(a) and (b), verification must be undertaken by the reporting entity through the use of reliable independent electronic data from at least two separate data sources.

#### **Applicable customer identification procedure with respect to companies**

4.3.1 In so far as a reporting entity has any customer who is a domestic or a foreign company, an AML/CTF program must comply with the requirements specified in Part 4.3 of these Rules.

4.3.2 An AML/CTF program must include appropriate risk-based systems and controls that are designed to enable the reporting entity to be reasonably satisfied, where a customer is a company, that:

- (1) the company exists; and
- (2) in respect to beneficial owners, the reporting entity has complied with the requirements specified in Part 4.12 of these Rules.

#### *Existence of the company - collection of minimum information*

4.3.3 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information about a company:

- (1) in the case of a domestic company:
  - (a) the full name of the company as registered by ASIC
  - (b) the full address of the company's registered office;

- (c) the full address of the company's principal place of business, if any;
  - (d) the ACN issued to the company;
  - (e) whether the company is registered by ASIC as a proprietary or public company; and
  - (f) if the company is registered as a proprietary company the name of each director of the company;
- (2) in the case of a registered foreign company:
- (a) the full name of the company as registered by ASIC
  - (b) the full address of the company's registered office in Australia;
  - (c) the full address of the company's principal place of business in Australia (if any) or the full name and address of the company's local agent in Australia, if any;
  - (d) the ARBN issued to the company;
  - (e) the country in which the company was formed, incorporated or registered;
  - (f) whether the company is registered by the relevant foreign registration body and if so whether it is registered as a private or public company or some other type of company; and
  - (g) if the company is registered as a private company by the relevant foreign registration body - the name of each director of the company;
- (3) in the case of an unregistered foreign company:
- (a) the full name of the company;
  - (b) the country in which the company was formed, incorporated or registered;
  - (c) whether the company is registered by the relevant foreign registration body and if so:
    - (i) any identification number issued to the company by the relevant foreign registration body upon the company's formation, incorporation or registration;
    - (ii) the full address of the company in its country of formation, incorporation or registration as registered by the relevant foreign registration body; and
    - (iii) whether it is registered as a private or public company or some other type of company by the relevant foreign registration body;
  - (d) if the company is registered as a private company by the relevant foreign registration body - the name of each director of the company; and
  - (e) if the company is not registered by the relevant foreign registration body, the full address of the principal place of business of the company in its country of formation or

incorporation.

- 4.3.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.3.3, any other KYC information relating to the company's existence will be collected in respect of a company

*Existence of company – verification of information*

- 4.3.5 An AML/CTF program must include a procedure for the reporting entity to verify, at a minimum, the following information about a company:

- (1) in the case of a domestic company:
  - (a) the full name of the company as registered by ASIC
  - (b) whether the company is registered by ASIC as a proprietary or public company; and
  - (c) the ACN issued to the company;
- (2) in the case of a registered foreign company:
  - (a) the full name of the company as registered by ASIC
  - (b) whether the company is registered by the relevant foreign registration body and if so whether it is registered as a private or public company; and
  - (c) the ARBN issued to the company;
- (3) in the case of an unregistered foreign company:
  - (a) the full name of the company; and
  - (b) whether the company is registered by the relevant foreign registration body and if so:
    - (i) any identification number issued to the company by the relevant foreign registration body upon the company's formation, incorporation or registration; and
    - (ii) whether the company is registered as a private or public company.

- 4.3.6 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.3.5, any other KYC information referred to in paragraph 4.3.3 or other KYC information relating to the company's existence collected in respect of the company, should be verified.

- 4.3.7 In determining whether, and what, additional information will be collected and/or verified in respect of a company pursuant to paragraphs 4.3.4 and/or 4.3.6, the reporting entity must have regard to ML/TF risk relevant to the provision of the designated service.

- 4.3.8 If an AML/CTF program includes the simplified company verification procedure described below with respect to a company, that is:

- (1) a domestic listed public company;
- (2) a majority owned subsidiary of a domestic listed public company; or
- (3) licensed and subject to the regulatory oversight of a Commonwealth, State or Territory statutory regulator in relation to its activities as a company;

an AML/CTF program is taken to comply with the requirements of paragraphs 4.3.5, 4.3.6 and 4.3.7 of these Rules in so far as the customers are concerned.

#### **Simplified Company Verification Procedure**

The reporting entity must confirm that the company is:

- (1) a domestic listed public company;
- (2) a majority owned subsidiary of a domestic listed public company; or
- (3) licensed and subject to the regulatory oversight of a Commonwealth, State or Territory statutory regulator in relation to its activities as a company;

by obtaining one or a combination of the following:

- (4) a search of the relevant domestic stock exchange;
- (5) a public document issued by the relevant company;
- (6) a search of the relevant ASIC database;
- (7) a search of the licence or other records of the relevant regulator.

- 4.3.9 (1) An AML/CTF program may include appropriate risk-based systems and controls for the reporting entity to determine whether and in what manner to verify the existence of a foreign company by confirming that the foreign company is a foreign listed public company.
- (2) If an AML/CTF program includes systems and controls of that kind, the AML/CTF program must include a requirement that, in determining whether and in what manner to verify the existence of a foreign listed public company in accordance with those systems and controls, the reporting entity must have regard to ML/TF risk relevant to the provision of the designated service, including the location of the foreign company or equivalent exchange (if any).
- (3) If an AML/CTF program includes systems and controls of that kind, an AML/CTF program is taken to comply with the requirements of paragraphs 4.3.5, 4.3.6 and 4.3.7 of these Rules in so far as those customers are concerned.

#### *Methods of verification*

4.3.10 Subject to paragraph 4.3.11, an AML/CTF program must require that the verification of information about a company be based as far as possible on:

- (1) reliable and independent documentation;
- (2) reliable and independent electronic data; or
- (3) a combination of (1) and (2) above.

4.3.11 For the purposes of subparagraph 4.3.10(1), 'reliable and

independent documentation' includes a disclosure certificate verifies information about the beneficial owners of a company reporting entity is permitted to obtain a disclosure certificate described in Chapter 30.

4.3.12 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether to rely on a disclosure certificate to verify information about a foreign company where such information is not otherwise reasonably available.

4.3.13 An AML/CTF program must include a requirement that, in determining whether to rely on a disclosure certificate to verify information in relation to a foreign company in accordance with the requirements of paragraph 4.3.12 above, the reporting entity must have regard to ML/TF risk relevant to the provision of the designated service, including the jurisdiction of incorporation of the foreign company as well as the jurisdiction of the primary operations of the foreign company and the location of the foreign stock or equivalent exchange (if any).

#### *Responding to discrepancies*

4.3.14 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to an discrepancy that arises in the course of verifying information about a company, so that the reporting entity can determine whether it is reasonably satisfied about the matters referred to in subparagraphs 4.3.2(1) and (2).

#### **Applicable customer identification procedure with respect to trustees**

4.4.1 In so far as a reporting entity has any customer who acts in the capacity of a trustee of a trust, an AML/CTF program must comply with the requirements specified in Part 4.4 of these Rules.

4.4.2 Subject to paragraph 4.4.18, an AML/CTF program must include appropriate risk-based systems and controls that are designed to enable the reporting entity to be reasonably satisfied, where a person notifies the reporting entity that the person is a customer of the reporting entity in the person's capacity as the trustee of a trust, that:

- (1) the trust exists; and
- (2) the name of each trustee and beneficiary, or a description of each class of beneficiary, of the trust has been provided.

#### *Existence of the trust - collection and verification of information*

4.4.3 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information about a customer:

- (1) the full name (if any) of the trust;
- (2) the full business name (if any) of the trustee in respect of the trust;
- (3) the type of the trust;

- (4) the country in which the trust was established;
- (5) the full name of the settlor of the trust, unless:
  - (a) the material asset contribution to the trust by the settlor at the time the trust is established is less than \$10,000; or
  - (b) the settlor is deceased; or
  - (c) the trust is verified using the simplified trustee verification procedure under paragraph 4.4.8 of the Rules; or
  - (d) the customer is a custodian.

*Note: 'Custodian' is defined in subparagraph 4.4.19(1) of these Rules.*

- (6) if any of the trustees is an individual, then in respect of those individuals – the information required to be collected about an individual under the applicable customer identification procedure with respect to individuals set out in an AML/CTF program;
- (7) if any of the trustees is a company, then in respect of those companies – the information required to be collected about a company under the applicable customer identification procedure with respect to companies set out in an AML/CTF program; and
- (8) if the trustees comprise individuals and companies then in respect of either an individual or a company – the information required to be collected about the individual or company (as the case may be) under the applicable customer identification procedure with respect to the individual or company set out in an AML/CTF program.

4.4.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.4.3, any other KYC information relating to the trust's existence will be collected in respect of a trust.

4.4.5 An AML/CTF program must include a procedure for the reporting entity to verify, at a minimum:

- (1) the full name (if any) of the trust;
- (2) if any of the trustees is an individual, then in respect of those individuals – information about the individual in accordance with the applicable customer identification procedure with respect to individuals set out in an AML/CTF program;
- (3) if any of the trustees is a company, then in respect of those companies – information about the company in accordance with the applicable customer identification procedure with respect to companies set out in an AML/CTF program;
- (4) if the trustees comprise individuals and companies then in respect of either an individual or a company – the information about the individual or company (as the case may be) in

accordance with the applicable procedures with respect to the individual or company set out in an AML/CTF program and

- (5) the full name of the settlor of the trust, unless:
- (a) the material asset contribution to the trust by the settlor at the time the trust is established is less than \$10,000; or
  - (b) the settlor is deceased; or
  - (c) the trust is verified using the simplified trustee verification procedure under paragraph 4.4.8 of these Rules; or
  - (d) the customer is a custodian.

*Note: 'Custodian' is defined in subparagraph 4.4.19(1) of these Rules.*

4.4.6 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether and to what extent, in addition to the KYC information referred to in paragraph 4.4.5, any other KYC information relating to the trust's existence collected in respect of the trust should be verified.

4.4.7 In determining whether, and what, additional information was collected and/or verified in respect of a trust pursuant to paragraphs 4.4.4 and/or 4.4.6, the reporting entity must have regard to ML/TF risk relevant to the provision of the designated service.

4.4.8 If an AML/CTF program includes the simplified trustee verification procedure described below with respect to a trust, it is:

- (1) a managed investment scheme registered by ASIC;
- (2) a managed investment scheme that is not registered by ASIC and that:
  - (a) only has wholesale clients; and
  - (b) does not make small scale offerings to which section 1012E of the *Corporations Act 2001* applies;
- (3) registered and subject to the regulatory oversight of a Commonwealth statutory regulator in relation to its activities as a trust; or
- (4) a government superannuation fund established by legislation;

an AML/CTF program is taken to comply with the requirements of paragraphs 4.4.5, 4.4.6 and 4.4.7 of these Rules in so far as the requirements are concerned.

#### **Simplified Trustee Verification Procedure**

The reporting entity must verify that the trust is:

- (1) a managed investment scheme registered by ASIC;
- (2) a managed investment scheme that is not registered by ASIC and that:
  - (a) only has wholesale clients; and
  - (b) does not make small scale offerings to which section 1012E of the *Corporations Act 2001* applies;
- (3) registered and subject to the regulatory oversight of a Commonwealth statutory regulator in relation to its activities as a trust;



- activities as a trust; or
- (4) a government superannuation fund established by legislation.

*Trustees and beneficiaries- collection and verification of information*

4.4.9 Subject to paragraph 4.4.18, an AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information about a customer (other than a trust) in respect of a trust to which paragraph 4.4.13 or 4.4.14 applies:

- (1) the full name and address of each trustee in respect of the trust; and
- (2) either:
  - (a) the full name of each beneficiary in respect of the trust; or
  - (b) if the terms of the trust identify the beneficiaries by reference to membership of a class – details of the class.

4.4.10 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.4.9, any other KYC information relating to the trustees, or beneficiaries will be collected in respect of the trust.

4.4.11 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, and, if so, in what manner to verify the name of any or each trustee or beneficiary, or details of any or each class of beneficiaries, or any other KYC information collected pursuant to the procedure of the kind described in paragraph 4.4.9, from the sources described in paragraph 4.4.15.

4.4.12 An AML/CTF program must include a requirement that, in determining whether and what KYC information will be collected and/or verified in respect of a trust and the extent to which any KYC information is verified, pursuant to a procedure of the kind described in paragraphs 4.4.10 and/or 4.4.11, the reporting entity must have regard to ML/TF risk relevant to the provision of the designated service.

4.4.13 An AML/CTF program need not include the requirements specified in paragraphs 4.4.9 to 4.4.12 in relation to a trust that is:

- (1) a managed investment scheme registered by ASIC;
- (2) a managed investment scheme that is not registered by ASIC and that:
  - (a) only has wholesale clients; and
  - (b) does not make small scale offerings to which section 1012E of the *Corporations Act 2001* applies; or
- (3) a government superannuation fund established by legislation.

4.4.14 An AML/CTF program need not include the requirements specified in paragraph 4.4.9 in relation to a trust that is registered and subject to the regulatory oversight of a Commonwealth statutory regulator in relation to its activities as a trust.

#### *Methods of verification*

4.4.15 Subject to paragraph 4.4.16, an AML/CTF program must require that the verification of information about a trust be based on:

- (1) a trust deed, certified copy or certified extract of a trust deed;
- (2) reliable and independent documents relating to the trust;
- (3) reliable and independent electronic data; or
- (4) a combination of (1) to (3) above.

4.4.16 For the purposes of subparagraph 4.4.15(2), 'reliable and independent documents relating to the trust' includes a disclosure certificate that verifies information about a trust where:

- (1) the verification is for the purposes of a procedure of the kind described in paragraphs 4.4.6 or 4.4.11 of these Rules; and
- (2) the information to be verified is not otherwise reasonably available from the sources described in paragraph 4.4.15.

#### *Responding to discrepancies*

4.4.17 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to any discrepancy that arises in the course of verifying information about a customer so that the reporting entity can determine whether it is reasonably satisfied about the matters referred to in subparagraphs 4.4.2(1) and (2).

#### *Trustees who are custodians*

4.4.18 An AML/CTF program need not include the requirements specified in the following AML/CTF Rules in relation to the provision by the reporting entity of designated services to a customer who is a custodian:

- (1) subparagraph 4.4.2(2); and
- (2) subparagraph 4.4.9(2); and
- (3) in so far as they relate to the collection, verification, updating or review (as applicable) of information on the underlying customers to whom the custodian is providing custodial or depository service:
  - (a) Parts 4.12 and 4.13; and
  - (b) paragraphs 15.2 and 15.3; and
  - (c) subparagraphs 15.9(2), 15.10(1)(b), 15.10(1)(c), 15.10(2) and 15.10(4).

*Note 1: The requirements in Parts 4.12 and 4.13 of the AML/CTF Rules continue to apply to reporting entities in relation to the collection and verification of information on the custodian customer.*

*Note 2: The requirements in paragraphs 15.2 and 15.3 and subparagraphs 15.9(2), 15.10(1)(b), 15.10(1)(c), 15.10(2) and 15.10(4) of the AML/CTF Rules continue to apply to reporting entities in relation to the collection, verification, re-verification, clarification, updating, review and detailed analysis of:*

- (a) *KYC information of customers that are custodians; and*
- (b) *beneficial owner information, other than information relating to the underlying customers of custodians.*

4.4.19 For the purpose of Part 4.4 of these AML/CTF Rules:

- (1) 'custodian' means a company that:
  - (a) is acting in the capacity of a trustee; and
  - (b) is providing a custodial or depository service of the kind described in item 46 of table 1 in subsection 6(6) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act); and
  - (c) either:
    - (i) holds an Australian financial services licence authorising it to provide custodial or depository services under the *Corporations Act 2001*; or
    - (ii) is exempt under the *Corporations Act 2001* from the requirement to hold such a licence; and
  - (d) either:
    - (i) satisfies one of the 'geographical link' tests in subsection 6(6) of the AML/CTF Act; or
    - (ii) has certified in writing to the relevant reporting entity that its name and enrolment details are entered on the Reporting Entities Roll; and
  - (e) has certified in writing to the relevant reporting entity that it has carried out all applicable customer identification procedures and ongoing customer due diligence requirements in accordance with Chapter 4 of the AML/CTF Rules in relation to its underlying customers prior to, or at the time of, becoming a customer of the reporting entity.
- (2) 'IDPS' has the same meaning as in ASIC Class Order [C 13/763] – *Investor directed portfolio services*, or any legislative instrument that replaces that class order.
- (3) 'MDA service' has the same meaning as in the *ASIC Corporations (Managed Discretionary Account Services) Instrument 2016/968*, or any legislative instrument that replaces that instrument.
- (4) 'providing a custodial or depository service' has the same meaning as in section 5 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* and includes providing a custodial or depository service as part of an IDPS or MDA service.
- (5) 'Reporting Entities Roll' has the meaning given by section 51C of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

4.5.1 In so far as a reporting entity has any customer who acts in the capacity of a partner in a partnership, an AML/CTF program must comply with the requirements specified in Part 4.5 of these Regulations.

4.5.2 An AML/CTF program must include appropriate risk-based systems and controls that are designed to enable the reporting entity to be reasonably satisfied, where a person notifies the reporting entity that the person is a customer of the reporting entity in the person's capacity as a partner in a partnership, that

- (1) the partnership exists; and
- (2) the name of each of the partners in the partnership has been provided in accordance with subparagraph 4.5.3(5).

*Collection and verification of information*

4.5.3 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information and documentation about a customer:

- (1) the full name of the partnership;
- (2) the full business name (if any) of the partnership as registered under any State or Territory business names legislation;
- (3) the country in which the partnership was established;
- (4) in respect of one of the partners - the information required to be collected about an individual under the applicable customer identification procedure with respect to individuals set out in an AML/CTF program; and
- (5) the full name and residential address of each partner in the partnership except where the regulated status of the partnership is confirmed through reference to the current membership directory of the relevant professional association.

4.5.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the information referred to in paragraph 4.5.3, any other KYC information will be collected in respect of the partnership.

4.5.5 An AML/CTF program must include a procedure for the reporting entity to verify at a minimum:

- (1) the full name of the partnership from the partnership agreement, certified copy or certified extract of the partnership agreement, reliable and independent documentary relating to the partnership or reliable and independent electronic data; and
- (2) information about one of the partners in accordance with the applicable customer identification procedure with respect to individuals set out in an AML/CTF program.

4.5.6 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, and to what extent, in addition to the KYC information referred to in paragraph 4.5.5, any other KYC information collected in respect of the partnership should be verified.

#### *Methods of verification*

4.5.7 Subject to paragraph 4.5.8, an AML/CTF program must require that the verification of information about a partnership be based on:

- (1) a partnership agreement, certified copy or certified extract of a partnership agreement;
- (2) a certified copy or certified extract of minutes of a partnership meeting;
- (3) reliable and independent documents relating to the partnership;
- (4) reliable and independent electronic data; or
- (5) a combination of (1) to (4) above.

4.5.8 For the purposes of subparagraph 4.5.7(3), 'reliable and independent documents relating to the partnership' includes a disclosure certificate that verifies information about a partnership where:

- (1) the verification is for the purposes of a procedure of the kind described in paragraph 4.5.6 of these Rules; and
- (2) the information to be verified is not otherwise reasonably available from the sources described in paragraph 4.5.7.

#### *Responding to discrepancies*

4.5.9 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to an discrepancy that arises in the course of verifying information about a customer so that the reporting entity can determine whether it is reasonably satisfied about the matters referred to in subparagraphs 4.5.2(1) and (2).

#### **Applicable customer identification procedure with respect to associations**

4.6.1 In so far as a reporting entity has any customer who is an incorporated or unincorporated association, an AML/CTF program must comply with the requirements specified in Part 4.6 of these Rules.

4.6.2 An AML/CTF program must include appropriate risk-based systems and controls that are designed to enable the reporting entity to be reasonably satisfied, where a customer notifies the reporting entity that it is an incorporated or unincorporated association, that:

- (1) the association exists; and
- (2) the names of any members of the governing committee (howsoever described) of the association have been provided.

#### *Collection and verification of information*

4.6.3 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information about an incorporated or unincorporated association:

- (1) if the customer notifies the reporting entity that it is an

- (1) if the customer notifies the reporting entity that he or she is a customer in his or her capacity as a member of an incorporated association:
- (a) the full name of the association;
  - (b) the full address of the association's principal place of administration or registered office (if any) or the residential address of the association's public office (if there is no such person) the association's president, secretary or treasurer;
  - (c) any unique identifying number issued to the association upon its incorporation by the State, Territory or overseas body responsible for the incorporation of the association; and
  - (d) the full name of the chairman, secretary and treasurer or equivalent officer in each case of the association;
- (2) if the person notifies the reporting entity that he or she is a customer in his or her capacity as a member of an unincorporated association:
- (a) the full name of the association;
  - (b) the full address of the association's principal place of administration (if any);
  - (c) the full name of the chairman, secretary and treasurer or equivalent officer in each case of the association;
  - (d) in respect of the member – the information required to be collected about an individual under the applicable customer identification procedure with respect to individuals set out in an AML/CTF program.

4.6.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.6.3, any other KYC information will be collected in respect of an association.

4.6.5 An AML/CTF program must include a procedure for the reporting entity to at a minimum:

- (1) if the customer is an incorporated association - verify the information provided by ASIC or by the State, Territory or overseas body responsible for the incorporation of the association or from the rules or constitution of the association or from a certified copy or certified extract of the rules or constitution of the association or from reliable and independent documents relating to the association or from reliable and independent electronic data:
  - (a) the full name of the incorporated association; and
  - (b) any unique identifying number issued to the incorporated association upon its incorporation; and
- (2) if the customer notifies the reporting entity that he or she is a customer in his or her capacity as a member of an unincorporated association:
  - (a) verify the full name (if any) of the association from the rules or constitution of the association or from a certified copy or certified extract of the rules or constitution

copy or certified extract of the rules or constitution of the association or from reliable and independent documents relating to the association or from reliable and independent electronic data; and

- (b) verify information about the member in accordance with the applicable customer identification procedure with respect to individuals set out in an AML/CTF program.

4.6.6 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether and to what extent, in addition to the KYC information referred to in paragraph 4.6.5, any other KYC information collected in respect of the association should be verified.

#### *Methods of verification*

4.6.7 Subject to paragraph 4.6.8, an AML/CTF program must require that the verification of information about an association be based on:

- (1) the constitution or rules of the association or a certified copy or certified extract of the constitution or rules of the association;
- (2) the minutes of meeting of the association or a certified copy or certified extract of minutes of meeting of the association;
- (3) in the case of an incorporated association, information provided by ASIC or by the State, Territory or overseas body responsible for the incorporation of the association;
- (4) reliable and independent documents relating to the association;
- (5) reliable and independent electronic data; or
- (6) a combination of (1)–(5) above.

4.6.8 For the purposes of subparagraph 4.6.7(4), ‘reliable and independent documents relating to the association’ includes a disclosure certificate that verifies information about an association where:

- (1) the verification is for the purposes of a procedure of the kind described in paragraph 4.6.6 of these Rules; and
- (2) the information to be verified is not otherwise reasonably available from the sources described in paragraph 4.6.7.

#### *Responding to discrepancies*

4.6.9 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to a discrepancy that arises in the course of verifying information about an association so that the reporting entity can determine whether it is reasonably satisfied about the matters referred to in subparagraphs 4.6.2(1) and (2).

### **Applicable customer identification procedure with respect to registered co-operatives**

4.7.1 In so far as a reporting entity has any customer who is a registered co-operative, an AML/CTF program must comply with

the requirements specified in Part 4.7 of these Rules.

4.7.2 An AML/CTF program must include appropriate risk-based systems and controls that are designed to enable the reporting entity to be reasonably satisfied, where a customer notifies the reporting entity that it is a registered co-operative, that:

- (1) the co-operative exists; and
- (2) the names of the chairman, secretary or equivalent officer in each case of the co-operative have been provided.

*Collection and verification of information*

4.7.3 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information about a registered co-operative:

- (1) the full name of the co-operative;
- (2) the full address of the co-operative's registered office or principal place of operations (if any) or the residential address of the co-operative's secretary or (if there is no secretary) the co-operative's president or treasurer;
- (3) any unique identifying number issued to the co-operative upon its registration by the State, Territory or overseas body responsible for the registration of the co-operative; and
- (4) the full name of the chairman, secretary and treasurer or equivalent officer in each case of the co-operative.

4.7.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the information referred to in paragraph 4.7.3, any other KYC information will be collected in respect of a registered co-operative.

4.7.5 An AML/CTF program must include a procedure for the reporting entity to, at a minimum, verify from information provided by ASIC or by the State, Territory or overseas body responsible for the registration of the co-operative or from an register maintained by the co-operative or a certified copy or certified extract of any register maintained by the co-operative from reliable and independent documents relating to the co-operative or from reliable and independent electronic data

- (1) the full name of the co-operative; and
- (2) any unique identifying number issued to the co-operative upon its registration.

4.7.6 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether and to what extent, in addition to the KYC information referred to in paragraph 4.7.5, any other KYC information relating to the registered co-operative should be verified.

*Methods of verification*

4.7.7 Subject to paragraph 4.7.8, an AML/CTF program must require that the verification of information about a registered co-operative be based on:

- (1) any register maintained by the co-operative or a certified



copy or certified extract of any register maintained by the co-operative;

- (2) any minutes of meeting of the co-operative or a certified copy or certified extract of any minutes of meeting of the co-operative;
- (3) information provided by the State, Territory or overseas body responsible for the registration of the co-operative;
- (4) reliable and independent documents relating to the co-operative;
- (5) reliable and independent electronic data; or
- (6) a combination of (1)–(5) above.

4.7.8 For the purposes of subparagraph 4.7.7(4), ‘reliable and independent documents relating to the co-operative’ includes disclosure certificate that verifies information about a registered co-operative where:

- (1) the verification is for the purposes of a procedure of the kind described in paragraph 4.7.7 of these Rules; and
- (2) the information to be verified is not otherwise reasonably available from the sources described in paragraph 4.7.7.

#### *Responding to discrepancies*

4.7.9 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to a discrepancy that arises in the course of verifying information about a registered co-operative so that the reporting entity can determine whether it is reasonably satisfied about the matter referred to in subparagraphs 4.7.2(1) and (2).

#### **Applicable customer identification procedure with respect to government bodies**

4.8.1 In so far as a reporting entity has any customer who is a government body an AML/CTF program must comply with the requirements specified in Part 4.8 and (in so far as they are applicable) Parts 4.9 and 4.10.

4.8.2 An AML/CTF program must include appropriate risk-based systems and controls that are designed to enable the reporting entity to be reasonably satisfied, where a customer notifies the reporting entity that it is a government body, that:

- (1) the government body exists; and
- (2) in the case of certain kinds of government bodies – information about the beneficial owners of the government body has been provided, where sought by the reporting entity.

#### *Collection and verification of information*

4.8.3 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information about a government body:

- (1) the full name of the government body;
- (2) the full address of the government body’s principal place of business;

- (2) the full address of the government body's principal place of operations;
- (3) whether the government body is an entity or emanation established under legislation, of the Commonwealth; and
- (4) whether the government body is an entity or emanation established under legislation, of a State, Territory, or a foreign country and the name of that State, Territory or country.

4.8.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.8.3 above, any other KYC information will be collected in respect of a government body.

4.8.5 An AML/CTF program must include a procedure for the reporting entity to verify the information collected under paragraph 4.8.3 from reliable and independent documentation, reliable and independent electronic data or a combination of both.

4.8.6 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to carrying out the procedure described in paragraph 4.8.5, any KYC information collected under paragraph 4.8.4 should be verified.

#### *Beneficial ownership in respect of foreign government entities*

4.8.7 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether to collect any KYC information about the ownership or control of a government body that is an entity or emanation, or is established under legislation, of a foreign country.

4.8.8 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether to verify any KYC information collected pursuant to a procedure of the kind described in paragraph 4.8.7 from reliable and independent documentation, reliable and independent electronic data or a combination of both.

#### *Responding to discrepancies*

4.8.9 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to an AML/CTF discrepancy that arises in the course of verifying information about a government body so that the reporting entity can determine whether it is reasonably satisfied about the matter referred to in subparagraphs 4.8.2(1) and (2).

### **Verification from documentation**

#### *Verification with respect to individuals*

4.9.1 In so far as an AML/CTF program provides for the verification of KYC information about an individual by means of reliable and independent documentation, an AML/CTF program must comply with the requirements specified in paragraphs 4.9.2 and 4.9.3.

4.9.2 An AML/CTF program must require that the reporting entity is satisfied that any document from which the reporting entity verifies KYC information about an individual has not expired (other than in the case of a passport issued by the Commonwealth or

than in the case of a passport issued by the Commonwealth (if expired within the preceding two years).

4.9.3 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine:

- (1) what reliable and independent documentation the reporting entity will require for the purpose of verifying the individual's name and date of birth and/or residential address (as the case may be);
- (2) if any other KYC information about an individual is to be verified – what reliable and independent documentation will be used to verify that information;
- (3) whether, and in what circumstances, the reporting entity is prepared to rely upon a copy of a reliable and independent document;
- (4) in what circumstances a reporting entity will take steps to determine whether a document produced about an individual may have been forged, tampered with, cancelled or stolen and, if so, what steps the reporting entity will take to establish whether or not the document has been forged, tampered with, cancelled or stolen;
- (5) whether the reporting entity will use any authentication service that may be available in respect of a document; and
- (6) whether, and how, to confirm KYC information about an individual by independently initiating contact with the person that the individual claims to be.

*Verification with respect to persons other than individuals*

4.9.4 In so far as an AML/CTF program provides for the verification of KYC information about a customer who is not an individual by means of reliable and independent documentation, an AML/CTF program must comply with the requirements specified in paragraph 4.9.5.

4.9.5 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine:

- (1) what and how many reliable and independent documents the reporting entity will use for the purpose of verification;
- (2) whether a document is sufficiently contemporaneous for use in verification;
- (3) whether, and in what circumstances, the reporting entity is prepared to rely upon a copy of a reliable and independent document;
- (4) in what circumstances the reporting entity will take steps to determine whether a document produced about a customer may have been cancelled, forged, tampered with or stolen and, if so, what steps the reporting entity will take to establish whether or not the document has been cancelled, forged, tampered with or stolen;
- (5) whether the reporting entity will use any authentication service that may be available in respect of a document; and
- (6) whether, and how, to confirm information about a customer.

by independently initiating contact with the customer.

### **Verification from reliable and independent electronic data**

4.10.1 In so far as an AML/CTF program provides for the verification of KYC information collected about a customer by means of reliable and independent electronic data, an AML/CTF program must comply with the requirements specified in paragraph 4.10.2.

4.10.2 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine:

- (1) whether the electronic data is reliable and independent, taking into account the following factors:
  - (a) the accuracy of the data;
  - (b) how secure the data is;
  - (c) how the data is kept up-to-date;
  - (d) how comprehensive the data is (for example, by reference to the range of persons included in the data and the period over which the data has been collected);
  - (e) whether the data has been verified from a reliable and independent source;
  - (f) whether the data is maintained by a government body pursuant to legislation; and
  - (g) whether the electronic data can be additionally authenticated; and
- (2) what reliable and independent electronic data the reporting entity will use for the purpose of verification;
- (3) the reporting entity's pre-defined tolerance levels for matches and errors; and
- (4) whether, and how, to confirm KYC information collected about a customer by independently initiating contact with a person that the customer claims to be.

### **Agents of customers**

#### *Agents of customers who are individuals*

4.11.1 For the purposes of paragraph 89(1)(b) and 89(2)(b) of the AML/CTF Act, paragraphs 4.11.2 to 4.11.4 of these Rules apply in relation to an agent of a customer who is an individual where the agent is authorised to act for or on behalf of the customer in relation to a designated service.

4.11.2 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following information and documentation (if any) about the customer:

- (1) the full name of each individual who purports to act for or on behalf of the customer with respect to the provision of a designated service by the reporting entity; and
- (2) evidence (if any) of the customer's authorisation of any individual referred to in subparagraph 4.11.2(1).

4.11.3 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, and to what extent, it should verify the identity of any of the individuals referred to in subparagraph 4.11.2(1).

4.11.4 An AML/CTF program must require the reporting entity to have regard to the ML/TF risk relevant to the provision of the designated service for the purposes of determining whether, and to what extent, it should verify the identity of any of the individuals referred to in paragraph 4.11.2(1).

4.11.5 For the purposes of paragraph 89(1)(b) and 89(2)(b) of the AML/CTF Act, paragraphs 4.11.6 to 4.11.8 of these Rules apply in relation to an agent of a customer who is not acting in his or her capacity as an individual where that agent is authorised to act for or on behalf of the customer in relation to a designated service.

4.11.6 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following information and documentation about the customer:

- (1) the full name of each individual who purports to act for or on behalf of the customer with respect to the provision of the designated service by the reporting entity; and
- (2) evidence of the customer's authorisation of any individual referred to in subparagraph 4.11.6(1).

4.11.7 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, and to what extent, it should verify the identity of any of the individuals referred to in subparagraph 4.11.6(1).

4.11.8 An AML/CTF program must require the reporting entity to have regard to the ML/TF risk relevant to the provision of the designated service for the purposes of determining whether, and to what extent, it should verify the identity of any of the individuals referred to in subparagraph 4.11.6(1).

#### *Verifying officers and agents of non-natural customers*

4.11.9 An AML/CTF program may provide for an agent of a customer who is a non-natural person to be identified by the customer's verifying officer, provided the requirements in paragraphs 4.11.12 to 4.11.13 are met.

4.11.10 In so far as:

- (1) an AML/CTF program provides for an agent of a non-natural customer to be identified by a verifying officer; and
- (2) the requirements in paragraphs 4.11.12 to 4.11.13 of these Rules are met;

an AML/CTF program need not apply the requirements in 4.11.7 to 4.11.8 of these Rules in relation to that agent.

#### *Appointment of a verifying officer*

4.11.11 A verifying officer is a person appointed by a customer to act as a verifying officer for the purposes of these Rules. A person may be appointed as a verifying officer if he or she is an employee, agent or contractor of the customer.

#### *Identification by a verifying officer*

4.11.12 Where an AML/CTF program provides for an agent to be identified by a verifying officer, an AML/CTF program must include a requirement for:

- (1) the agent to be identified by the customer's verifying officer in accordance with paragraph 4.11.13 of these Rules;
- (2) the verifying officer to be identified and verified by the reporting entity in accordance with the requirements specified in Chapter 4 of these Rules;
- (3) the reporting entity to be provided with evidence of the customer's authorisation of the verifying officer to act as verifying officer;
- (4) the verifying officer to make and for the customer to retain a record of all matters collected pursuant to paragraph 4.11.13; and
- (5) the verifying officer to provide the following to the reporting entity:
  - (a) the full name of the agent; and
  - (b) a copy of the signature of the agent.

4.11.13 A verifying officer will be taken to have identified an agent or she has collected the following:

- (1) the full name of the agent;
- (2) the title of the position or role held by the agent with the customer;
- (3) a copy of the signature of the agent; and
- (4) evidence of the agent's authorisation to act on behalf of the customer.

#### **Collection and Verification of Beneficial Owner information**

4.12.1 An AML/CTF program must include appropriate systems and controls for the reporting entity to determine the beneficial owner of each customer and carry out the following, either by the provision of a designated service to the customer or as soon as practicable after the designated service has been provided:

- (1) collect, (including from the customer, where applicable) and take reasonable measures to verify:
  - (a) each beneficial owner's full name, and
  - (b) the beneficial owner's date of birth; or
  - (c) the beneficial owner's full residential address.

4.12.2 The requirements of paragraph 4.12.1 may be modified:

- (1) for a customer who is an individual, the reporting entity may assume that the customer and the beneficial owner are one and the same, unless the reporting entity has reasonable grounds to consider otherwise;
- (2) for a customer who is:

- (a) a company which is verified under the simplified company verification procedure under paragraph 4.4.8 of these Rules;
- (b) a trust which is verified under the simplified trust verification procedure under paragraph 4.4.8 of these Rules;
- (c) an Australian Government Entity; or
- (d) a foreign listed public company, or a majority-owned subsidiary of such a company, subject to disclosure requirements (whether by stock exchange rules or through law or enforceable means) that ensure transparency of beneficial ownership;

then,

- (e) paragraph 4.12.1 need not be applied.

*Note: The terms 'foreign company', 'listed public company' and 'foreign listed public company' are defined in Chapter 1 of the AML/CTF Rules.*

4.12.3 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the information referred to in paragraph 4.12.1 above, any other information will be collected and verified about any beneficial owner.

*Note: Reporting entities should consider the requirements in the Privacy Act 1988 relating to the collection and handling of information about beneficial owners.*

#### Verification

4.12.4 An AML/CTF program must require that the verification of information collected about each beneficial owner of a customer be based on:

- (1) reliable and independent documentation;
- (2) reliable and independent electronic data; or
- (3) a combination of (1) and (2) above.

*Safe harbour procedure where ML/TF risk of the beneficial owner is medium or lower*

4.12.5 Paragraph 4.12.7 sets out one procedure for documentation-based verification (subparagraphs 4.12.7(2) and (3)) and electronic verification (subparagraph 4.12.7(4)) which a reporting entity may include in its AML/CTF program to comply with its obligations under paragraph 4.12.1 of these Rules where the customer and the beneficial owner of the customer is of medium or lower ML/TF risk. Paragraph 4.12.7 does not prevent a reporting entity from meeting the verification requirement in paragraph 4.12.1 of these Rules in another way where the beneficial owners of the customer are of medium or lower ML/TF risk.

4.12.6 Paragraph 4.12.7 is not applicable if any beneficial owner is a foreign politically exposed person.

4.12.7 An AML/CTF program that requires the reporting entity to

4.12.7 An AML/CTF program that requires the reporting entity to take the following will be taken to meet the requirements of paragraph 4.12.1 of these Rules in respect of the beneficial owners of a customer, where a reporting entity determines the relationship with that customer and the beneficial owner medium or lower risk:

- (1) collect the information described in paragraph 4.12.1 in regard to each beneficial owner;

*Documentation-based safe harbour procedure*

- (2) verify each beneficial owner's full name and either the beneficial owner's full residential address or date of birth both, from:

- (a) an original or certified copy of a primary photographic identification document; or
- (b) both:
  - (i) an original or certified copy of a primary non-photographic identification document; and
  - (ii) an original or certified copy of a secondary identification document; and

- (3) verify the document produced by the customer in regard to each beneficial owner has not expired (other than in the case of a passport issued by the Commonwealth that expired within the preceding two years);

*Electronic-based safe harbour procedure*

- (4) verify each beneficial owner's full name and either the beneficial owner's full residential address or date of birth both, using reliable and independent electronic data from at least two separate data sources.

*Responding to discrepancies*

4.12.8 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to a discrepancy that arises in the course of verifying information collected about each beneficial owner so that the reporting entity can determine that it is reasonably satisfied that each beneficial owner is the person that the customer claims they are.

*Procedure to follow where unable to determine the identity of the beneficial owner*

4.12.9 If the reporting entity is unable to ascertain a beneficial owner, the reporting entity must identify and take reasonable measures to verify:

- (1) for a company (other than a company which is verified under the simplified company verification procedure under paragraph 4.3.8 of these Rules) or a partnership, any individual who:
  - (a) is entitled (either directly or indirectly) to exercise 25% or more of the voting rights, including a power of veto, or



- (b) holds the position of senior managing official (or equivalent);
- (2) for a trust (other than a trust which is verified under simplified trustee verification procedure under paragraph 4.4.8 of these Rules), any individual who holds the power to appoint or remove the trustees of the trust;
- (3) for an association or a registered co-operative, any individual who:
  - (a) is entitled (either directly or indirectly) to exercise 25% or more of the voting rights including a power of veto, or
  - (b) would be entitled on dissolution to 25% or more of the property of the association or registered co-operative or
  - (c) holds the position of senior managing official (or equivalent).

*Note: In addition to the verification procedures set out in Part 4, a reporting entity may be able to use a disclosure certificate. Details regarding disclosure certificates are set out in Chapter 5 of the AML/CTF Rules.*

### **Collection and Verification of Politically Exposed Person information**

4.13.1 An AML/CTF program must include appropriate risk-management systems to determine whether a customer or beneficial owner is a politically exposed person. The determination must occur either before the provision of a designated service to the customer or as soon as practicable after the designated service has been provided. If it is determined that the customer or beneficial owner is a politically exposed person, the reporting entity must carry out the applicable steps in this Part.

4.13.2 An AML/CTF program must include appropriate risk-management systems for the reporting entity to undertake each of the following steps for domestic politically exposed persons and international organisation politically exposed persons:

- (1) in the case of a beneficial owner, comply with the identification requirements specified in paragraphs 4.2.1 to 4.2.9 of these Rules as if the politically exposed person were the customer; and
- (2) determine whether the person is of high ML/TF risk; and
- (3) if the person is determined to be of high ML/TF risk, then in addition to the action specified in subparagraph 4.13.1(3), carry out the actions specified in subparagraphs 4.13.3(3) and (4).

4.13.3 An AML/CTF program must include appropriate risk-management systems for the reporting entity to undertake each of the following steps for foreign politically exposed persons and high ML/TF risk domestic or international organisation politically exposed persons:

- (1) in the case of a beneficial owner, comply with the identification requirements specified in paragraphs 4.2.1 to 4.2.9 of these Rules as if the politically exposed person were the customer; and

identification requirements specified in paragraphs 4.2.4.2.9 of these Rules as if the politically exposed person were the customer; and

- (2) obtain senior management approval before establishing or continuing a business relationship with the individual and before the provision, or continued provision, of a designated service to the customer;
- (3) take reasonable measures to establish the politically exposed person's source of wealth and source of funds;
- (4) comply with the obligations in Chapter 15 of these Rules.

4.13.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to an discrepancy that arises in the course of verifying information collected about a politically exposed person, so that the reporting entity can be reasonably satisfied that the politically exposed person is the person that he or she claims to be.

*Note: Reporting entities should consider the requirements in the Privacy Act 1988 relating to the collection and handling of sensitive information about politically exposed persons.*

#### **Exemptions relating to the identification of beneficial owners and politically exposed persons**

4.14.1 The requirements in Parts 4.12 and 4.13 of these Rules do not apply to a reporting entity which:

- (1) provides a designated service of the type specified in Column 1; and
- (2) is exempt from Division 4 of Part 2 of the AML/CTF Act in accordance with the circumstances and conditions of the AML/CTF Act or AML/CTF Rules specified in Column 2;

of the following table:

<b>Column 1 - Relevant designated service in subsection 6(2), 6(3) or 6(4) of the AML/CTF Act</b>	<b>Column 2 - AML/CTF Act and AML/CTF Rules references relevant to the exemptions</b>
<b>Multiple tables - Financial Services, Bullion and Gambling services</b>	
Any of the designated services in tables 1, 2 or 3	Chapter 28 - Applicable customer identification procedures in certain circumstances - assignment, conveyance, sale or transfer of businesses
Any of the designated services in tables 1, 2, or 3	Chapter 50 - Exemption from applicable customer identification procedure in certain

	circumstances
Item 50 of table 1 or item 14 of table 3	Paragraph 14.4 in Chapter 14 – Thresholds for certain designated services
<b>Table 1 - Financial Services</b>	
Any of the designated services	Chapter 66 – Applicable customer identification procedures in certain circumstances – compulsory partial or total transfer of business made under the <i>Financial Sector (Business Transfer and Group Restructure) Act 1999</i>
Items 40, 42 or 44	Subsection 39(6)
Items 2 or 3	Chapter 35 – Exemption from applicable customer identification procedures for correspondent banking relationships
Items 6 or 7	Chapter 39 – Exemption from applicable customer identification procedures – premium funding loans for a general insurance policy
Items 6, 7, 8, 31 and 32	Chapter 45 – Debt collection
Item 17	Paragraph 14.2 in Chapter 14 – Thresholds for certain designated services
Items 25 or 26	Paragraph 14.3 in Chapter 14 – Thresholds for certain designated services
Item 33	Chapter 38 – Exemption from applicable customer identification procedures for the sale of shares for charitable purposes
Item 33	Chapter 49 – International Uniform Give-Up Agreements
Items 35 or 46	Chapter 67 – Warrants
Item 43(a)	Part 41.2 in Chapter 41 – Exemption from applicable customer identification procedures – cashing out of low value superannuation funds and for the Departing Australia

	Superannuation Payment
Items 43 or 45	Part 41.3 in Chapter 41 – Exemption from applicable customer identification procedures – cashing out of low value superannuation funds and for the Departing Australia Superannuation Payment
<b>Table 2 – Bullion</b>	
Items 1 or 2	Chapter 33 – Applicable customer identification procedure for purchases and sales of bullion valued at less than \$5000
<b>Table 3 – Gambling services</b>	
Items 5, 6, 9 and 10	Chapter 52 – Persons who are licensed to operate no more than 15 gaming machines

#### **Procedure to follow where a customer cannot provide satisfactory evidence of identity**

*Reporting entities may only rely on Part 4.15 in limited and exceptional cases where a person does not possess, and is unable to obtain, the necessary information or evidence of identity. This may include: individuals whose birth was not registered, people who are homeless, undocumented arrivals in Australia, people living in remote areas, people who are transgender or intersex, people affected by natural disasters, people with limited access to identity documents (for example because they were raised in institutional or foster care), people with limited participation in society, and young people or those over 18 who have not established a ‘social footprint’ in the community.*

4.15.1 If a reporting entity is unable to establish the identity of a customer using the applicable customer identification requirements specified in Chapter 4 of the AML/CTF Rules because the customer does not possess, and is unable to obtain, the necessary information or evidence of identity, then it may use alternative identity proofing processes, in accordance with its risk-based systems and controls, to do so.

*Note: Alternative identity proofing processes could include, but are not limited to, acceptance of multiple types of secondary identification documents where normally a primary identification document would be required.*

4.15.2 If a reporting entity is unable to establish the identity of a customer in accordance with paragraph 4.15.1, then it may accept a self-attestation from the customer certifying that the information provided in relation to their identity is true and correct.

4.15.3 A reporting entity must apply appropriate levels of ongoing customer due diligence in order to identify, mitigate and manage

any ML/TF risk associated with customer identities established using self-attestation.

- 4.15.4 A reporting entity must not rely on a self-attestation if it knows or has reason to believe that it is incorrect or misleading.

*Note: Customers and reporting entities seeking to rely on self-attestation to establish identity should be aware that criminal and civil penalties may apply under Part 12 of the AML/CTF Act for providing false or misleading information, producing false or misleading documents, and for providing or receiving a designated service using a false customer name.*

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

### **Special anti-money laundering and counter-terrorism financing (AML/CTF) program**

- 5.1.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made pursuant to section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of paragraphs 36(1)(b) and 86(1)(c) and sections 106, 107 and 108 of that Act. They specify the requirements with which a special AML/CTF program must comply. This Chapter commences on 1 June 2014.

- 5.1.2 A reporting entity must have a special AML/CTF program where all of the designated services it provides are covered by item 1 in table 1 in section 6 of the AML/CTF Act. The sole or primary purpose of a special program is to set out the reporting entity's applicable customer identification procedures. Chapter 5 does not apply to pre-commencement customers.

### **Applicable customer identification procedures in relation to special AML/CTF program**

- 5.2.1 The requirements with which a special AML/CTF program must comply are the requirements that are specified in the Rules in Chapter 4 for an AML/CTF program.
- 5.2.2 For the avoidance of doubt, the requirements specified in the Rules in Chapter 4 apply with respect to a special AML/CTF program as if any reference in those paragraphs to an AML/CTF program includes a reference to 'a special AML/CTF program'.
- 5.2.3 Paragraphs 4.11.1 and 4.11.5 of the Rules in Chapter 4 apply with respect to a special AML/CTF Program as if the rule were made under paragraph 89(3)(b) of the AML/CTF Act.

*Reporting entities should note that in relation to activities they*

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

### **Verification of identity of customers**

6.1.1 These Anti-Money Laundering and Counter-Terrorism Financial Rules (Rules) are made pursuant to subsection 29(2), subsection 31(2), subparagraph 35(1)(b)(ii), subsection 35(2) and section 35 of the *Anti-Money Laundering and Counter-Terrorism Financial Act 2006* (AML/CTF Act).

### **Verification of the identity of customers for the purposes of section 35**

6.2.1 For the purposes of subparagraph 35(1)(b)(ii) of the AML/CTF Act, section 35 will apply to a reporting entity in circumstances where the reporting entity suspects on reasonable grounds that the customer is not the person that he or she claims to be.

6.2.2 Where the circumstance specified in paragraph 6.2.1 above comes into existence, the specified action for the purposes of subsection 35(2) of the AML/CTF Act is set out at paragraph 6.2.3 below.

6.2.3 The reporting entity must, within 14 days commencing after the day on which the circumstance specified in paragraph 6.2.1 above comes into existence, take one or more of the actions specified below:

- (1) collect any KYC information in respect of the customer;
- (2) verify, from a reliable and independent source, certain information that has been obtained in respect of the customer;

for the purpose of enabling the reporting entity to be reasonably satisfied that the customer is the person that he or she claims to be.

### **Verification of the identity of pre-commencement customers**

6.3.1 For the purposes of subsection 29(2) of the AML/CTF Act, the specified action is as set out in paragraph 6.3.2.

6.3.2 The reporting entity must, within 14 days commencing after the day on which the suspicious matter reporting obligation arose, take one or more of the actions specified below:

- (1) carry out the applicable customer identification procedure unless the reporting entity has previously carried out or is deemed to have carried out that procedure or a comparable procedure;
- (2) collect any KYC information in respect of the customer;

- (3) verify, from a reliable and independent source, certain information that has been obtained in respect of the customer;

for the purpose of enabling the reporting entity to be reasonably satisfied that the customer is the person that he or she claims to be.

#### **Verification of the identity of low-risk service customers**

6.4.1 For the purposes of subsection 31(2) of the AML/CTF Act, the specified action is as set out in paragraph 6.4.2 below.

6.4.2 The reporting entity must, within 14 days starting after the day on which the suspicious matter reporting obligation arose, take one or more of the actions specified below:

- (1) carry out the applicable customer identification procedure unless the reporting entity has previously carried out or is deemed to have carried out that procedure or a comparable procedure;
- (2) collect any KYC information in respect of the customer;
- (3) verify, from a reliable and independent source, certain information that has been obtained in respect of the customer;

for the purpose of enabling the reporting entity to be reasonably satisfied that the customer is the person that he or she claims to be.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

#### **Applicable customer identification procedures deemed to have been carried out by a reporting entity**

7.1.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made pursuant to sections 38 and 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

7.1.2 For the purposes of these Rules:

the **first reporting entity** means the reporting entity referred to in paragraph 38(a) of the AML/CTF Act; and

the **second reporting entity** means the reporting entity referred to in paragraph 38(c) of the AML/CTF Act.

#### **Licensed financial advisers**

- 7.2.1 A circumstance for the purposes of paragraph 38(b) of the AML/CTF Act is that the first reporting entity has provided a designated service within the meaning of item 54 of table 1 of section 6 of the AML/CTF Act to a particular customer.
- 7.2.2 In relation to the circumstances specified in paragraph 7.2.1 the following are conditions for the purposes of paragraph 38(b) of the AML/CTF Act:
- (1) the designated service referred to in paragraph 7.2.1 involved the first reporting entity making arrangements for the customer to receive a designated service from the second reporting entity;
  - (2) the second reporting entity has obtained a copy of the record made by the first reporting entity in accordance with subsection 112(2) of the AML/CTF Act in respect of the customer or under an agreement in place for the management of identification or other records, the second reporting entity has access to the record made by the first reporting entity in accordance with subsection 112(2); and
  - (3) the second reporting entity has determined that it is appropriate for it to rely upon the applicable customer identification procedure carried out by the first reporting entity having regard to the ML/TF risk faced by the second reporting entity relevant to the provision of the designated service to the customer.

#### **Designated business groups**

- 7.3.1 A circumstance for the purposes of paragraph 38(b) is that the first reporting entity is a member of a designated business group as defined in section 5 of the AML/CTF Act.
- 7.3.2 In relation to the circumstance specified in paragraph 7.3.1 the following are conditions for the purposes of paragraph 38(d) of the AML/CTF Act:
- (1) at the time when the customer referred to in paragraph 7.3.1 becomes a customer of the second reporting entity or at any other time when a customer is required to undergo the applicable customer identification procedure by the second reporting entity, the second reporting entity is a member of the same designated business group to which the first reporting entity belongs;
  - (2) the second reporting entity has obtained a copy of the record made by the first reporting entity in accordance with subsection 112(2) of the AML/CTF Act in respect of the customer or under an agreement in place for the management of identification or other records, the second reporting entity has access to the record made by the first reporting entity in accordance with subsection 112(2); and
  - (3) the second reporting entity has determined that it is appropriate for it to rely upon the applicable customer identification procedure carried out by the first reporting entity having regard to the ML/TF risk faced by the second reporting entity relevant to the provision of the designated service to the customer.



*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

#### **Part A of a standard anti-money laundering and counter-terrorism financing (AML/CTF) program**

8.1.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made pursuant to section 229 in relation to these Rules in Parts 8.1 to 8.7 and 8.9) for the purposes of paragraphs 36(1)(b) and 84(2)(c) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act). Part 7 of the AML/CTF Act obliges a reporting entity to adopt and maintain an AML/CTF program relating to the provision of designated services. A standard AML/CTF program is a program that applies to a particular reporting entity. Standard AML/CTF programs are divided into Parts A and B.

8.1.2 The primary purpose of Part A of a standard AML/CTF program is to identify, manage and mitigate money laundering or terrorism financing (ML/TF) risk a reporting entity may reasonably face in relation to the provision by the reporting entity of designated services at or through a permanent establishment in Australia. These Rules set out the requirements with which Part A of a standard AML/CTF program must comply.

#### *The risk-based approach and ML/TF risk*

8.1.3 Some of the requirements specified in these Rules may be complied with by a reporting entity putting in place appropriate risk-based systems or controls. When determining and putting in place appropriate risk-based systems or controls, the reporting entity must have regard to the nature, size and complexity of its business and the type of ML/TF risk that it might reasonably

8.1.4 For the purposes of these Rules, in identifying its ML/TF risk a reporting entity must consider the risk posed by the following factors:

- (1) its customer types, including any politically exposed persons;
- (2) the types of designated services it provides;
- (3) the methods by which it delivers designated services; and
- (4) the foreign jurisdictions with which it deals.

8.1.5 Part A must be designed to enable the reporting entity to:

- (1) understand the nature and purpose of the business relationship with its customer types, including, as appropriate, the collection of information relevant to the

understanding; and

- (2) understand the control structure of non-individual customers;
- (3) identify significant changes in ML/TF risk for the purpose of its Part A and Part B programs, including:
  - (a) risks identified by consideration of the factors in paragraph 8.1.4; and
  - (b) risks arising from changes in the nature of the business relationship, control structure, or beneficial ownership of its customers; and
- (4) recognise such changes in ML/TF risk for the purposes of the requirements of its Part A and Part B programs; and
- (5) identify, mitigate and manage any ML/TF risk arising from:
  - (a) all new designated services prior to introducing them to the market;
  - (b) all new methods of designated service delivery prior to adopting them;
  - (c) all new or developing technologies used for the provision of a designated service prior to adopting them; and
  - (d) changes arising in the nature of the business relationship, control structure or beneficial ownership of its customers.

8.1.6 Part A must include a requirement that, in determining whether a reporting entity is a designated service provider, the reporting entity must have regard to ML/TF risk relevant to the provision of the designated service.

#### *Application*

8.1.7 Unless otherwise provided in the AML/CTF Act or these Rules, a reporting entity must apply Part A to all areas of its business that are involved in the provision of a designated service, including in relation to any function carried out by a third party.

#### **AML/CTF risk awareness training program**

8.2.1 Part A must include an AML/CTF risk awareness training program that meets the requirements of paragraphs 8.2.2 to 8.2.3 below.

8.2.2 The AML/CTF risk awareness training program must be designed so that the reporting entity gives its employees appropriate training at appropriate intervals, having regard to the ML/TF risk it may reasonably face.

8.2.3 The AML/CTF training program must be designed to enable employees to understand:

- (1) the obligations of the reporting entity under the AML/CTF Act and Rules;
- (2) the consequences of non-compliance with the AML/CTF Act and Rules;
- (3) the type of ML/TF risk that the reporting entity might face and the potential consequences of such risk; and

- (4) those processes and procedures provided for by the reporting entity's AML/CTF program that are relevant to work carried out by the employee.

### **Employee due diligence program**

- 8.3.1 Part A must include an employee due diligence program that meets the requirements of paragraphs 8.3.2 to 8.3.4 of these Rules.
- 8.3.2 The employee due diligence program must put in place appropriate risk-based systems and controls for the reporting entity to determine whether to, and in what manner to, screen any prospective employee who, if employed, may be in a position to facilitate the commission of a money laundering or financing of terrorism offence in connection with the provision of a designated service by the reporting entity.
- 8.3.3 The employee due diligence program must include appropriate risk-based systems and controls for the reporting entity to determine whether to, and in what manner to, re-screen an employee where the employee is transferred or promoted and may be in a position to facilitate the commission of a money laundering or financing of terrorism offence in connection with the provision of a designated service by the reporting entity.
- 8.3.4 The employee due diligence program must establish and maintain a system for the reporting entity to manage any employee who fails, without reasonable excuse, to comply with any system, control or procedure established in accordance with Part A or Part B.

### **Oversight by boards and senior management**

- 8.4.1 A reporting entity's Part A program must be approved by its governing board and senior management. Part A must also be subject to the ongoing oversight of the reporting entity's board and senior management. Where the reporting entity does not have a board, Part A must be approved and overseen by its chief executive officer or equivalent.

### **AML/CTF Compliance Officer**

- 8.5.1 Part A must provide for the reporting entity to designate a person as the 'AML/CTF Compliance Officer' at the managerial level. The AML/CTF Compliance Officer may have other duties.

### **Independent review**

- 8.6.1 Part A must be subject to regular independent review.
- 8.6.2 The frequency of the review should take into account the nature, size and complexity of a reporting entity's business, and the type and level of ML/TF risk it might face.
- 8.6.3 While the review may be carried out by either an internal or external party, the person appointed to conduct the review must not have been involved in undertaking any of the functions or measures being reviewed, including:
- (1) the design, implementation, or maintenance of Part A of the reporting entity's AML/CTF program; or

- (2) the development of a reporting entity's risk assessment related internal controls.

8.6.4 The reporting entity must be able to demonstrate the independence of the reviewer.

8.6.5 The purpose of the review should be to:

- (1) assess the effectiveness of the Part A program having regard to the ML/TF risk of the reporting entity;
- (2) assess whether the Part A program complies with these Rules;
- (3) assess whether the Part A program has been effectively implemented; and
- (4) assess whether the reporting entity has complied with the Part A program.

8.6.6 The results of the review, including any report prepared, must be provided to senior management and, where applicable, the governing board of the reporting entity.

#### **Incorporation of feedback and guidance on ML/TF risks from AUSTRAC**

8.7.1 In developing and updating Part A of an AML/CTF program a reporting entity must take into account:

- (1) any applicable guidance material disseminated or published by AUSTRAC; and
- (2) any feedback provided by AUSTRAC in respect of the reporting entity or the industry it operates in,

that is relevant to the identification, mitigation, and management of ML/TF risk arising from the provision of a designated service by that entity.

#### **Permanent establishments in a foreign country**

8.8.1 The Rules in part 8.8 are made pursuant to section 229 of the AML/CTF Act for the purposes of paragraph 84(2)(b) of that Act. The Rules in part 8.8 apply to a reporting entity in respect of a permanent establishment in a foreign country at or through which it provides designated services.

8.8.2 Subject to 8.8.3 below, Part A of a reporting entity's AML/CTF program must include systems and controls that meet the obligations under the AML/CTF Act that apply to the provision of designated services at or through a permanent establishment of the reporting entity in a foreign country.

8.8.3 Where a reporting entity's permanent establishment in a foreign jurisdiction is regulated by anti-money laundering and counter-terrorism financing laws comparable to Australia, or minimal additional systems and controls need to be considered.

8.8.4 The requirements in parts 8.4 to 8.7 of these Rules apply in relation to a permanent establishment in a foreign country at or through which a reporting entity provides designated services. The requirements in parts 8.1 to 8.3 of these Rules do not apply in relation to a permanent establishment in a foreign country.

in relation to a permanent establishment in a foreign country or through which a reporting entity provides designated services.

### **Reporting obligations**

8.9.1 Part A of a reporting entity's AML/CTF program must include:

- (1) the obligations that apply to the reporting entity under sections 41, 43, 45 and 47 of the AML/CTF Act (reporting obligations); and
- (2) appropriate systems and controls of the reporting entity designed to ensure compliance with the reporting obligations of the reporting entity; and
- (3) the obligations that apply to the reporting entity under section 51F of the AML/CTF Act and Chapter 64 of the AML/CTF Rules; and
- (4) where the reporting entity is a remittance dealer, the obligations that apply to the remittance dealer under section 75M of the AML/CTF Act (as applicable) to advise:
  - (a) the AUSTRAC CEO of material changes in circumstances and other specified circumstances under subsections 75M(1) and 75M(3) of the AML/CTF Act;
  - (b) the registered remittance network provider of material changes in circumstances and other specified circumstances under subsection 75M(2) of the AML/CTF Act.

*Note: Remittance dealers should also refer to Chapter 60 of the AML/CTF Rules which specifies the material changes to registration details which must be reported to the AUSTRAC CEO.*

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

### **Part A of a joint anti-money laundering and counter-terrorism financing (AML/CTF) program**

9.1.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made pursuant to section 229 in relation to these Rules in Parts 9.1 to 9.7 and 9.9) for the purposes of paragraphs 36(1)(b) and 85(2)(c) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act). Part 7 of the AML/CTF Act obliges a reporting entity to adopt and maintain an AML/CTF program relating to the provision of designated services. A joint AML/CTF program is a program that applies to each reporting entity that from time to time belongs to a designated business group. Joint AML/CTF programs are divided into Parts A and B.

9.1.2 The primary purpose of Part A of a joint AML/CTF program

identify, manage and mitigate ML/TF risk faced by each reporting entity (in a designated business group) in relation to the provision of designated services at or through a permanent establishment in Australia. These Rules set out the requirements with which Part A of a joint AML/CTF program must comply.

*The risk-based approach and ML/TF risk*

9.1.3 Some of the requirements specified in these Rules may be complied with by putting in place appropriate risk-based systems and controls. In determining and putting in place appropriate risk-based systems and controls, Part A must have regard to the following factors in relation to each reporting entity in the designated business group:

- (1) the nature, size and complexity of business; and
- (2) the type of ML/TF risk that might be reasonably faced.

9.1.4 For the purposes of these Rules, in identifying the ML/TF risk, Part A must take account of the risk posed by the following factors in relation to each reporting entity in the designated business group:

- (1) the customer types, including any politically exposed persons;
- (2) the types of designated services provided;
- (3) the methods by which designated services are delivered and
- (4) the foreign jurisdictions dealt with.

9.1.5 Part A must be designed to enable the group to:

- (1) understand the nature and purpose of the business relationship with its customer types, including, as appropriate, the collection of information relevant to that understanding; and
- (2) understand the control structure of non-individual customers;
- (3) identify significant changes in ML/TF risk for the purposes of the group's Part A and Part B programs, including:
  - (a) risks identified by consideration of the factors in paragraph 9.1.4; and
  - (b) risks arising from changes in the nature of the business relationship, control structure or beneficial ownership of its customers; and
- (4) such changes in ML/TF risk to be recognised for the purposes of the requirements of the group's Part A and Part B programs; and
- (5) identify, mitigate and manage any ML/TF risk arising from:
  - (a) all new designated services prior to introducing them to the market;
  - (b) all new methods of designated service delivery prior to adopting them;

- (c) all new or developing technologies used for the provision of a designated service prior to adopting and
- (d) changes arising in the nature of the business relationship, control structure or beneficial owners its customers.

9.1.6 Part A must include a requirement that, in determining whether to include a reporting entity in the designated business group, the reporting entity must have regard to ML/TF risk relevant to the provision of the designated service.

#### *Application*

9.1.7 Unless otherwise provided in the AML/CTF Act or these Rules, each reporting entity in the designated business group must apply Part A to all areas of its business that are involved in the provision of a designated service, including in relation to any function carried out by a third party.

#### **AML/CTF risk awareness training program**

9.2.1 Part A must include an AML/CTF risk awareness training program that meets the requirements of paragraphs 9.2.2 and 9.2.3 below.

9.2.2 The AML/CTF risk awareness training program must be designed so that each reporting entity gives its employees appropriate training at appropriate intervals, having regard to the ML/TF risk it may reasonably face.

9.2.3 The AML/CTF training program must be designed to enable employees to understand:

- (1) the obligations of the reporting entity under the AML/CTF Act and Rules;
- (2) the consequences of non-compliance with the AML/CTF Act and Rules;
- (3) the type of ML/TF risk that the reporting entity might face and the potential consequences of such risk; and
- (4) those processes and procedures provided for by the reporting entity's AML/CTF program that are relevant to the work carried out by the employee.

#### **Employee due diligence program**

9.3.1 Part A must include an employee due diligence program that meets the requirements of paragraphs 9.3.2 to 9.3.4 of these Rules.

9.3.2 The employee due diligence program must put in place appropriate risk-based systems and controls for each reporting entity to determine whether to, and in what manner to, screen any prospective employee who, if employed, may be in a position to facilitate the commission of a money laundering or financial terrorism offence in connection with the provision of a designated service by the reporting entity.

9.3.3 The employee due diligence program must include appropriate risk-based systems and controls for each reporting entity to

determine whether to, and in what manner to, re-screen an employee where the employee is transferred or promoted and may be in a position to facilitate the commission of a money laundering or financing of terrorism offence in connection with the provision of a designated service by the reporting entity.

- 9.3.4 The employee due diligence program must establish and maintain a system for each reporting entity to manage any employee who fails, without reasonable excuse, to comply with any system, control or procedure established in accordance with Part A or Part B.

#### **Oversight by boards and senior management**

- 9.4.1 Except where paragraph 9.4.2 applies, the Part A program must be approved by the governing board and senior management of each reporting entity in the designated business group. Part A must also be subject to the ongoing oversight of each reporting entity's board and senior management. Where the reporting entity does not have a board, Part A must be approved and overseen by its chief executive officer or equivalent.
- 9.4.2 Where each member of a designated business group is related to the other members, the Part A program may be approved and subject to the ongoing oversight of the governing board and senior management of the main holding company of the group.

#### **AML/CTF Compliance Officer**

- 9.5.1 Part A program must provide for the designated business group to designate a person as the 'AML/CTF Compliance Officer' at a management level. The AML/CTF Compliance Officer may have other duties.

#### **Independent review**

- 9.6.1 Part A must be subject to regular independent review.
- 9.6.2 The frequency of the review should take into account the nature, size and complexity of each reporting entity's business and the type and level of ML/TF risk it might face.
- 9.6.3 While the review may be carried out by either an internal or external party, the person appointed to conduct the review must not have been involved in undertaking any of the functions or measures being reviewed, including:
- (1) the design, implementation, or maintenance of Part A or joint AML/CTF program; or
  - (2) the development of any of the reporting entities' risk assessments or related internal controls.
- 9.6.4 The designated business group must be able to demonstrate independence of the reviewer.
- 9.6.5 The purpose of the review should be to:
- (1) assess the effectiveness of the Part A program having regard to the ML/TF risk of each reporting entity in the designated business group;
  - (2) assess whether the Part A program complies with these Rules;



(3) assess whether the Part A program has been effectively implemented; and

(4) assess whether each reporting entity in the designated business group has complied with its Part A program.

9.6.6 The result of the review, including any report prepared, must be provided to senior management and, where applicable the governing board of each reporting entity in the designated business group.

#### **Incorporation of feedback and guidance on ML/TF risks from AUSTRAC**

9.7.1 In developing and updating Part A of a joint AML/CTF program a reporting entity must take into account:

(1) any applicable guidance material disseminated or published by AUSTRAC; and

(2) any feedback provided by AUSTRAC in respect of the reporting entity or the industry it operates in,

that is relevant to the identification, mitigation, and management of ML/TF risk arising from the provision of a designated service by that entity.

#### **Permanent establishments in a foreign country**

9.8.1 The Rules in 9.8 are made pursuant to section 229 of the AML/CTF Act for the purposes of paragraph 85(2)(b) of that Act. The Rules in 9.8 apply to those reporting entities in the designated business group that provide designated services through a permanent establishment in a foreign country.

9.8.2 Subject to 9.8.3, Part A of a reporting entity's AML/CTF program must include systems and controls that meet the obligations under the AML/CTF Act that apply to the provision of the reporting entity of designated services at or through a permanent establishment of the reporting entity in a foreign country.

9.8.3 Where a reporting entity's permanent establishment in a foreign jurisdiction is regulated by anti-money laundering and counter-terrorism financing laws comparable to Australia, or minimal additional systems and controls need to be considered.

9.8.4 The requirements in parts 9.4 to 9.7 of these Rules apply in relation to a permanent establishment in a foreign country through which a reporting entity provides designated services. The requirements in parts 9.1 to 9.3 of these Rules do not apply in relation to a permanent establishment in a foreign country through which a reporting entity provides designated services.

#### **Reporting obligations**

9.9.1 Part A must include:

(1) the obligations that apply to each of the reporting entities under sections 41, 43, 45 and 47 of the AML/CTF Act (reporting obligations); and

(2) appropriate systems and controls of each of the reporting entities designed to ensure compliance with the reporting obligations.

- obligations of the reporting entity; and
- (3) the obligations that apply to each of the reporting entities under section 51F of the AML/CTF Act and Chapter 64 of the AML/CTF Rules; and
- (4) where a reporting entity in the designated business group is a remittance dealer, the obligations that apply to the remittance dealer under section 75M of the AML/CTF Act (as applicable) to advise:
  - (a) the AUSTRAC CEO of material changes in circumstances and other specified circumstances under subsections 75M(1) and 75M(3) of the AML/CTF Act;
  - (b) the registered remittance network provider of material changes in circumstances and other specified circumstances under subsection 75M(2) of the AML/CTF Act.

*Note: Remittance dealers should also refer to Chapter 60 of the AML/CTF Rules which specifies the material changes to registration details which must be reported to the AUSTRAC CEO.*

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Casinos**

10.1.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made pursuant to section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

10.1.2 These Rules at paragraphs 10.1.3 to 10.1.8 apply with respect to designated services provided by casinos other than online gambling services.

### *Customer identification*

10.1.3 These Rules at paragraphs 10.1.4 to 10.1.6 are made pursuant to subsection 39(4) of the AML/CTF Act.

10.1.4 Subject to paragraph 10.1.6 of these Rules, the provisions of Division 4 of Part 2 of the AML/CTF Act do not apply in respect of a designated service that:

- (1) is of a kind described in items 1, 2, 4, 6, 7, 8 or 9 of table 3 of section 6; and
- (2) involves an amount less than \$10,000.

10.1.5 Subject to paragraph 10.1.6 of these Rules, the provisions of Division 4 of Part 2 of the AML/CTF Act do not apply in respect of a designated service that is of a kind described in items 1, 2, 4, 6, 7, 8 or 9 of table 3 of section 6 where the service:

- (1) involves an amount of \$10,000 or more; and

(1) involves an amount of \$10,000 or more; and

(2) involves the customer giving or receiving only gaming or tokens.

10.1.6 The exemptions in paragraphs 10.1.4 and 10.1.5 of these Rules do not apply in circumstances where a reporting entity determines in accordance with its enhanced customer due diligence program that it should obtain and verify any KYC information in respect of a customer in accordance with its customer identification program.

#### *Verification of identity*

10.1.7 The requirements specified in paragraphs 6.2.3, 6.3.2 and 6.4.2 of these Rules are modified as follows in respect of a reporting entity that is a casino:

(1) the specified action in paragraph 6.2.3 must be taken within 14 days starting after the day on which the circumstance specified in paragraph 6.2.1 comes into existence, or before the reporting entity commences to provide another designated service to which Part 2 of the AML/CTF Act applies, to the customer;

(2) the specified action in paragraph 6.3.2 must be taken within 14 days starting after the day on which the suspicious matter reporting obligation arose, or before the reporting entity commences to provide another designated service to which Part 2 of the AML/CTF Act applies, to the customer;

(3) the specified action in paragraph 6.4.2 must be taken within 14 days starting after the day on which the suspicious matter reporting obligation arose, or before the reporting entity commences to provide another designated service to which Part 2 of the AML/CTF Act applies, to the customer.

#### *Record-keeping*

10.1.8 This Rule is made pursuant to subsections 118(2) and (4) of the AML/CTF Act. Sections 106 and 107 of the AML/CTF Act do not apply to a designated service of a kind described in:

(1) items 1, 2, or 6 of table 3 of section 6; or

(2) item 4 of table 3 of section 6 to the extent that the service is provided by giving the customer only gaming chips or tokens.

#### **On-course bookmakers and totalisator agency boards**

10.2.1 These Rules at paragraphs 10.2.2 to 10.2.7 apply with respect to designated services provided by a reporting entity that is an on-course bookmaker or a totalisator agency board.

#### *Customer identification*

10.2.2 These Rules at paragraphs 10.2.3 to 10.2.5 are made pursuant to subsection 39(4) of the AML/CTF Act.

10.2.3 Subject to paragraph 10.2.5 of these Rules, the provisions of Division 4 of Part 2 of the AML/CTF Act do not apply in respect of a designated service of a kind described in items 1 or 2 of table 3 of section 6.

of section 6.

10.2.4 Subject to paragraph 10.2.5 of these Rules, the provisions of Division 4 of Part 2 of the AML/CTF Act do not apply in respect of a designated service of a kind described in items 4, 7, or 8 of table 3 of section 6 where that service involves an amount less than \$10,000.

10.2.5 The exemptions in paragraphs 10.2.3 and 10.2.4 of these Rules do not apply in circumstances where a reporting entity determines in accordance with its enhanced customer due diligence program that it should obtain and verify any KYC information in respect of a customer in accordance with its customer identification program.

#### *Record-keeping*

10.2.6 This Rule is made pursuant to subsections 118(2) and (4) of the AML/CTF Act. Sections 106 and 107 of the AML/CTF Act do not apply:

- (1) to a designated service of a kind described in items 1, 4, 5 or 6 of table 3 of section 6; or
- (2) a designated service of a kind described in items 7 or 8 of table 3 of section 6 where that service involves an amount less than \$10,000.

#### *Verification of identity*

10.2.7 The requirements specified in paragraphs 6.2.3, 6.3.2 and 6.4.2 of these Rules are modified as follows in respect of a reporting entity which provides a designated service that is an on-course bookmaker or a totalisator agency board:

- (1) the specified action in paragraph 6.2.3 must be taken within 14 days starting after the day on which the circumstance specified in paragraph 6.2.1 comes into existence, or before the reporting entity commences to provide another designated service to which Part 2 of the AML/CTF Act applies, to the customer;
- (2) the specified action in paragraph 6.3.2 must be taken within 14 days starting after the day on which the suspicious matter reporting obligation arose, or before the reporting entity commences to provide another designated service to which Part 2 of the AML/CTF Act applies, to the customer;
- (3) the specified action in paragraph 6.4.2 must be taken within 14 days starting after the day on which the suspicious matter reporting obligation arose, or before the reporting entity commences to provide another designated service to which Part 2 of the AML/CTF Act applies, to the customer.

### **Gaming machines**

10.3.1 These Rules at paragraphs 10.3.2 to 10.3.5 apply with respect to a designated service provided by a reporting entity by way of a gaming machine other than designated services provided at a casino.

#### *Customer identification*

10.3.2 The Rules at paragraphs 10.3.3 to 10.3.5 are made pursuant to

subsection 39(4) of the AML/CTF Act.

10.3.3 Subject to paragraph 10.3.5 of these Rules, the provisions Division 4 of Part 2 of the AML/CTF Act do not apply in respect of a designated service of a kind described in items 5 or 6 of table 1 of section 6.

10.3.4 Subject to paragraph 10.3.5 of these Rules, the provisions Division 4 of Part 2 of the AML/CTF Act do not apply in respect of a designated service of a kind described in items 9 or 10 of table 1 of section 6 where that service involves an amount less than \$10,000.

10.3.5 The exemptions in paragraphs 10.3.3 and 10.3.4 do not apply in circumstances where a reporting entity determines in accordance with its enhanced customer due diligence program that it should obtain and verify any KYC information in respect of a customer in accordance with its customer identification program.

### **Accounts for online gambling services**

*Special circumstances that justify carrying out the applicable identification procedure after commencement of the provision of a designated service*

10.4.1 Subject to the condition specified in paragraph 10.4.2, only online gambling services are specified for the purposes of paragraph 33(a) of the AML/CTF Act.

10.4.2 For the purposes of paragraph 33(b) of the AML/CTF Act, the special circumstances in respect of online gambling services are only available if:

- (1) the customer is required to open an account in order to obtain the service; and
- (2) the reporting entity does not permit the customer to withdraw any funds from the account prior to carrying out the applicable customer identification procedure.

*The period ascertained in accordance with subparagraph 34(1)(d)(i) of the AML/CTF Act*

10.4.3 For the purposes of subparagraph 34(1)(d)(i) of the AML/CTF Act, the period is 14 days commencing on the day that the reporting entity opens the account in the name of the customer.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

### **Compliance Report - reporting and lodgment periods**

11.1 These Rules are made under section 229 of the AML/CTF Act for the purposes of subsections 47(1), 47(2) and 247(4) of the Act.

#### *Reporting and lodgment periods*

11.2 A reporting period is specified to be each successive period of 12 months beginning on 1 January and ending on 31 December.

11.3 The lodgment period is specified to be the period of 3 months beginning at the end of each successive reporting period.

#### *Exemption from compliance reporting*

11.4 For the purposes of subsection 247(4) of the AML/CTF Act, subsections 47(1) and 47(2) of that Act do not apply in circumstances where the reporting entity:

- (1) only provided designated services during the reporting period of the kind set out in items 31 and 32 of the table in subsection 6(2) of the AML/CTF Act as a registered remittance affiliate; and
- (2) did not provide any other designated service.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Electronic funds transfer instructions**

12.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made pursuant to section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for subparagraph 70(a)(i) of that Act.

12.2 For subparagraph 70(a)(i) of the AML/CTF Act, the following kind of transfer instruction is specified:

- (1) a transfer instruction where money is to be paid by use of a credit card.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Approved third-party bill payment system**

13.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made pursuant to section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act*

2006 (AML/CTF Act) for the definition of 'approved third-party bill payment system' in section 5 of that Act.

13.2 For the definition of 'approved third-party bill payment system' in section 5 of the AML/CTF Act, the following bill payment systems are prescribed:

- (1) BPAY;
- (2) DEFT; and
- (3) The Australian Payments Clearing Association Limited direct entry system.

13.3 In these Rules:

- (1) 'BPAY' means a national bill payment service provided by banks, building societies and credit unions registered with the BPAY scheme, that is accessed by a registered business customer via the telephone or internet and which enables a registered business to collect payments from their customers electronically.
- (2) 'DEFT' means direct electronic funds transfer which is a payment, collection, receipting and reconciliation service that enables the payment of bills by customers registered with the DEFT scheme through the internet, BPAY, Australia Post offices, telephone or mail.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Thresholds for certain designated services**

14.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for subsection 39(4) of that Act.

14.2 Subject to paragraph 14.5 below, Division 4 of Part 2 of the AML/CTF Act does not apply to a designated service that:

- (1) involves issuing a cheque that an ADI, bank or other financial institution draws on itself as described in the definition of 'bill of exchange' in section 5 of the Act as described in item 17 of table 1 in section 6; and
- (2) meets either of the following requirements:
  - (a) the face value of the cheque is less than \$5,000 (Australian or the foreign equivalent) and the cheque is drawn from an account held at the issuing:
    - (i) ADI; or
    - (ii) building society; or

- (iii) bank; or
- (iv) credit union; or
- (v) a representative office of a foreign bank; and
- (vi) the cheque contains details of a payee; or
- (b) where subparagraph 14.2(2)(a) does not apply:
  - (i) the face value of the cheque is less than \$1,000 (Australian or the foreign equivalent); and
  - (ii) the cheque is funded by physical currency.

14.3 Subject to paragraph 14.5 below, Division 4 of Part 2 of the AML/CTF Act does not apply to a designated service that:

- (1) involves issuing, cashing or redeeming a traveller's cheque or traveller's cheques as described in items 25 or 26 of table 1 in section 6; and
- (2) the total sum of the face value of the traveller's cheque issued, cashed or redeemed in any one transaction is less than \$1,000 (Australian or the foreign equivalent).

14.4 Subject to paragraph 14.5 below, Division 4 of Part 2 of the AML/CTF Act does not apply to a designated service that:

- (1) is of a kind described in item 50 of table 1 or item 14 of table 3 in section 6; and
- (2) meets either of the following requirements:
  - (a) the value of the currency is less than \$1,000 (Australian or the foreign equivalent) into or out of an account, and the account provider is:
    - (i) an ADI; or
    - (ii) a building society; or
    - (iii) a bank; or
    - (iv) a credit union; or
    - (v) a representative office of a foreign bank; or
  - (b) where subparagraph 14.4(2)(a) does not apply:
    - (i) the value of the currency is less than \$1000 (Australian or the foreign equivalent); and
    - (ii) the proceeds and/or funding source of the service described in item 50 of table 1 or item 14 of table 3 are in the form of physical currency.

14.5 The exemptions in paragraphs 14.2 to 14.4 of these Rules do not apply where a reporting entity determines in accordance with its enhanced customer due diligence program that it should obtain and verify any KYC information about a customer in accordance with its customer identification program.

14.6 In these Rules:

- (1) 'KYC information' has the meaning given by Chapter 1 of the *Anti-Money Laundering and Counter-Terrorism Financial*



- (2) 'representative office of a foreign bank' is an office of a foreign bank in Australia in respect of which the foreign bank has obtained written consent to establish the representative office in Australia under section 67 of the *Banking Act 1959* from the Australian Prudential Regulatory Authority.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## Ongoing customer due diligence

- 15.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the AML/CTF Act) for paragraphs 36(1)(b), 84(2)(c) and 85(1) of that Act. Sections 136 and 137 of the AML/CTF Act apply to each paragraph of this Chapter. The requirements set out in these Rules do not apply in relation to a permanent establishment in a foreign country at or through which a reporting entity provides designated services. This Chapter commences on 1 January 2014.

### *KYC information and Beneficial Owner Information*

*Note: Reporting entities that provide designated services to customers who are custodians are exempt from the requirements specified in paragraphs 15.2 and 15.3 of these Rules in relation to certain beneficial owner information. These exemptions are set out in paragraph 4.4.18 of Chapter 4 of these Rules.*

- 15.2 A reporting entity must include in Part A of its AML/CTF program appropriate risk-based systems and controls to enable the reporting entity to determine in what circumstances further KYC information or beneficial owner information should be collected or verified in respect of customers or beneficial owners of customers to enable the review and update of KYC information and beneficial owner information for ongoing customer due diligence purposes.

*Note: 'Beneficial owner information' is the information referred to in Part 4.12 of Chapter 4 of these Rules.*

- 15.3 A reporting entity must undertake reasonable measures to keep, update and review the documents, data or information collected under the applicable customer identification process (particularly in relation to high risk customers) and the beneficial owner identification requirements specified in Chapter 4 of these Rules.

### *Transaction monitoring program*

- 15.4 A reporting entity must include a transaction monitoring program in Part A of its AML/CTF program.
- 15.5 The transaction monitoring program must include appropriate risk-based systems and controls to monitor the transactions of customers.
- 15.6 The transaction monitoring program must have the purpose of identifying, having regard to ML/TF risk, any transaction that appears to be suspicious within the terms of section 41 of the AML/CTF Act.
- 15.7 The transaction monitoring program should have regard to complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or visible lawful purpose.

*Enhanced customer due diligence program*

*Note: Reporting entities that provide designated services to customers who are custodians are exempt from the requirements specified in subparagraphs 15.9(2), 15.10(1)(b), 15.10(1)(c), 15.10(2) and 15.10(4) of these Rules in relation to underlying customers of custodians. These exemptions are set out in paragraph 4.4.18 of Chapter 4 of these Rules.*

- 15.8 A reporting entity must include an enhanced customer due diligence program in Part A of its AML/CTF program.
- 15.9 Subject to paragraph 4.4.18, the reporting entity must apply an enhanced customer due diligence program when:
- (1) it determines under its risk-based systems and controls that the ML/TF risk is high; or

*Note: Reporting entities should consider whether any beneficial owner of a customer, including domestic or international organisations or politically exposed persons, should be considered high risk.*

- (2) a designated service is being provided to a customer who is, or who has a beneficial owner who is, a foreign politically exposed person; or
  - (3) a suspicion has arisen for the purposes of section 41 of the AML/CTF Act; or
  - (4) the reporting entity is entering into or proposing to enter into a transaction and a party to the transaction is physically present in, or is a corporation incorporated in, a prescribed foreign country.
- 15.10 The enhanced customer due diligence program must include appropriate risk-based systems and controls so that, in cases where one or more of the circumstances in paragraph 15.9 apply, a reporting entity must undertake measures appropriate to those circumstances, including a range of the measures in subparagraphs 15.10(1) to (7):
- (1) seek information from the customer or from third party sources in order to undertake one or more of the following specified in subparagraphs 15.10(1)(a) – (d):
    - (a) clarify or update KYC information already collected from the customer;

- (b) subject to paragraph 4.4.18, clarify or update beneficial owner information already collected from the customer;
  - (c) subject to paragraph 4.4.18, obtain any further information or beneficial owner information, including, where appropriate, taking reasonable measures to identify:
    - (i) the source of the customer's and each beneficial owner's wealth; and
    - (ii) the source of the customer's and each beneficial owner's funds;
  - (d) clarify the nature of the customer's ongoing business with the reporting entity;
- (2) undertake more detailed analysis of the customer's KYC information and, subject to paragraph 4.4.18, beneficial owner information, including, where appropriate, taking reasonable measures to identify:
    - (a) the source of the customer's and each beneficial owner's wealth; and
    - (b) the source of the customer's and each beneficial owner's funds;
  - (3) verify or re-verify KYC information in accordance with the customer identification program;
  - (4) subject to paragraph 4.4.18, verify or re-verify beneficial owner information in accordance with the beneficial owner identification requirements specified in Chapter 4 of the Rules;
  - (5) undertake more detailed analysis and monitoring of the customer's transactions – both past and future, including but not limited to:
    - (a) the purpose, reasons for, or nature of specific transactions; or
    - (b) the expected nature and level of transaction behaviour, including future transactions;
  - (6) seek senior management approval for:
    - (a) continuing a business relationship with a customer and
    - (b) whether a designated service should continue to be provided to the customer;
  - (7) consider whether a transaction or particular transaction should be processed.

15.11 If the circumstances in subparagraph 15.9(2) arise, in addition to any other appropriate measures in paragraph 15.10, a

reporting entity must undertake the measures in subparagraphs 15.10(2) and 15.10(6).

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

### **Reportable details for international funds transfer instructions (items 1 and 2 in section 46)**

(Rules commencing on 12 December 2008)

16.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for paragraph 45(3)(b) of that Act.

#### *Instructions transmitted out of Australia*

16.2 A report about an international funds transfer instruction (instruction), within the meaning of item 1 of the table in section 46 of the AML/CTF Act, must contain:

- (1) for an instruction within the meaning of paragraphs 70(a) or 70(c) of the AML/CTF Act – the complete payer information under section 71 of the AML/CTF Act;
- (2) for an instruction within the meaning of paragraph 70(b) of the AML/CTF Act – the tracing information under section 72 of the AML/CTF Act;
- (3) the name or identity of the ordering institution;
- (4) where applicable, the name or identity of any branch or department of the ordering institution which the payer requested to transmit the instruction;
- (5) the name or identity of the institution (the sender) transmitting the instruction to the beneficiary institution different from subparagraph 16.2(3);
- (6) where applicable, the name or identity of the sender's branch or department which transmitted the instruction different from subparagraph 16.2(4);
- (7) the date on which the sender transmits, or is to transmit, the instruction to the beneficiary institution;
- (8) the name or identity of the beneficiary institution;
- (9) the name or identity of the branch or department of the beneficiary institution at which the funds will be made available to the payee;

- (10) the name of the payee;
- (11) one or more of the following details:
  - (a) the number of any account held by the payee with beneficiary institution through which the transferred money is to be made available to the payee;
  - (b) the payee's full business or residential address (not being a post box address);
  - (c) where applicable, the type and number of identification relating to the payee;
- (12) the following details as appear in the instruction:
  - (a) any information or directions provided by the payer to the payee in relation to the instruction;
  - (b) the name or identity of any interposed institution in the funds transfer chain;
  - (c) the name or identity and account number of any institution through which the beneficiary institution is to be reimbursed;
  - (d) any information or directions provided by the order institution or interposed institution to another institution in the funds transfer chain under subsection 64(2) of the AML/CTF Act;
  - (e) any other details relating to the instruction;
- (13) the amount referred to in the instruction;
- (14) the currency of the amount referred to in the instruction and
- (15) the date on which the transferred money becomes available to the payee.

*Instructions transmitted into Australia*

16.3 A report about an international funds transfer instruction (instruction), within the meaning of item 2 of the table in section 46 of the AML/CTF Act, must contain:

- (1) the name of the payer;
- (2) the name or identity of the institution (the sender) transmitting the instruction to the beneficiary institution;
- (3) the following details as appear in the instruction:
  - (a) for an instruction within the meaning of paragraphs 70(b) or 70(c) of the AML/CTF Act:
    - (i) one of the following:
      - (A) the payer's full business or residential address (not being a post box address);
      - (B) a unique identification number given to the payer by the Commonwealth or an authority of the Commonwealth (for example, an Australian Business Number or an Australian Company Number);

Number);

- (C) a unique identification number given to the payer by the government of a foreign country;
  - (D) the identification number given to the payer by the ordering institution;
  - (E) if the payer is an individual—the payer's date of birth, the country of the payer's birth and the town, city or locality of the payer's birth;
- (ii) if the money is, or is to be, transferred from a savings account held by the payer with the ordering institution in Australia—the account number for the account;
  - (iii) if subparagraph 16.3(3)(a)(ii) does not apply—either:
    - (A) a unique reference number for the transfer instruction; or
    - (B) if the money is, or is to be, transferred from a single account held by the payer with the ordering institution—the account number for the account;
- (b) for an instruction within the meaning of paragraph 16.3(1) of the AML/CTF Act – the tracing information under section 72 of the AML/CTF Act;
  - (c) the name or identity of the ordering institution, if different from subparagraph 16.3(2);
  - (d) where applicable, the name or identity of any branch or department of the ordering institution which the payer requested to transmit the instruction, if different from subparagraph 16.3(3)(e);
  - (e) where applicable, the name or identity of the sender's branch or department which transmitted the instruction;
  - (f) the identification code assigned to the instruction by the sender;
  - (g) the name or identity of the beneficiary institution;
  - (h) the name or identity of any branch or department of the beneficiary institution at which the funds will be made available to the payee;
  - (i) the date on which the beneficiary institution received the instruction;
  - (j) the name of the payee;
  - (k) the payee's full business or residential address (not being a post box address);
  - (l) the number of any account held by the payee with the beneficiary institution through which the transferred money is to be made available to the payee;
  - (m) the name or identity of any interposed institution in the funds transfer chain;

- (n) the name or identity and account number of any institution through which the beneficiary institution be reimbursed;
- (o) any information or directions provided by the payor to the payee in relation to the instruction;
- (p) any information or directions provided by the order institution or interposed institution to another institution in the funds transfer chain under subsection 64(2) of the AML/CTF Act;
- (q) any other details relating to the instruction;
- (4) the amount referred to in the instruction;
- (5) the currency of the amount referred to in the instruction and
- (6) the date on which the transferred money becomes available to the payee.

16.4 A report under subsection 45(2) of the AML/CTF Act must contain the following details about the person completing the report:

- (1) Full name;
- (2) Job title or position;
- (3) Telephone number; and
- (4) Email address.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

### **Reportable details for international funds transfer instructions under a designated remittance arrangement (items 3 and 4 in section 46)**

(Rules commencing on 12 December 2008)

17.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for paragraph 45(3)(b) of that Act.

#### *Instructions transmitted out of Australia*

17.2 A report about an international funds transfer instruction (the instruction), within the meaning of item 3 of the table in section 46 of the AML/CTF Act, must contain:

- (1) if the transferor entity is an individual:
  - (a) the transferor entity's full name;
  - (b) any other name used by the transferor entity, if known;
  - (c) the transferor entity's date of birth;
  - (d) the transferor entity's full residential address (not being a post box address);
  - (e) the transferor entity's postal address, if different from subparagraph 17.2(1)(d), if known;
  - (f) the transferor entity's telephone number, if known;
  - (g) the transferor entity's email address, if known;
  - (h) the transferor entity's occupation, business or principal activity and ABN, if known;
  - (i) a description of the reliable and independent documentation and/or electronic data source(s) relied upon to verify the identity of the transferor entity, if applicable;
  - (j) the identification number assigned to the transferor entity, if applicable;
- (2) if the transferor entity is a non-individual:
  - (a) the name of the transferor entity and any business name under which the transferor entity is operating;
  - (b) a description of the legal form of the transferor entity and any business structure it is a part of, for the purpose of its main business activities, if known (for example, partnership, trust or company);
  - (c) the business or principal activity of the transferor entity, if known;
  - (d) the full address (not being a post box address) of the transferor entity at which the entity carries on business or its principal place of business;
  - (e) the transferor entity's postal address, if different from subparagraph 17.2(2)(d), if known;
  - (f) where the transferor entity has an ACN or ARBN – that number;
  - (g) where the transferor entity has an ABN – that number;
  - (h) the transferor entity's telephone number, if known;
  - (i) the transferor entity's email address, if known;
  - (j) a description of the reliable and independent documentation and/or electronic data source(s) relied upon to verify the identity of the transferor entity, if applicable;
  - (k) the identification number assigned to the transferor entity, if applicable;



- (3) the identifier (if applicable), and/or the name and address (not being a post box address) of a non-financier (sender) accepts the instruction from the transferor entity, for the transfer of money or property under the designated remittance arrangement;
- (4) the date on which the non-financier accepts the instruction from the transferor entity;
- (5) the name and address (not being a post box address) of person at which money or property is accepted from the transferor entity, if different from subparagraph 17.2(3);
- (5A) the number of the transferor entity's account held with the person which accepts the instruction from the transferor entity, if applicable;
- (6) where a person (other than the person referred to in subparagraph 17.2(3)) transmits the instruction for the transfer of money or property under the designated remittance arrangement (transmitter):
  - (a) if the transmitter is an individual:
    - (i) the transmitter's full name;
    - (ii) any other name used by the transmitter, if known;
    - (iii) the transmitter's date of birth, if known;
    - (iv) the transmitter's address (not being a post box address);
    - (v) the transmitter's postal address, if different from subparagraph 17.2(6)(a)(iv), if known;
    - (vi) the transmitter's telephone number, if known;
    - (vii) the transmitter's email address, if known;
    - (viii) the transmitter's occupation, business or principal activity, if known;
  - (b) if the transmitter is a non-individual:
    - (i) the name of the transmitter and any business name under which the transmitter is operating;
    - (ii) a description of the legal form of the transmitter and any business structure it is a part of, for the purposes of its main business activities, if known (for example, partnership, trust or company);
    - (iii) the business or principal activity of the transmitter, if known;
    - (iv) the address (not being a post box address) of transmitter at which the transmitter carries on business, or its principal place of business;
    - (v) the transmitter's postal address, if different from subparagraph 17.2(6)(b)(iv), if known;
    - (vi) where the transmitter has an ACN or ARBN - number;
    - (vii) where the transmitter has an ABN - that number;

- (viii) the transmitter's telephone number, if known;
  - (ix) the transmitter's email address, if known;
- (6A) the name and address of the person in the foreign country in which the sender and/or transmitter sent the instruction for the transfer of money or property;
- (7) the identifier (if applicable), and/or the name and address of a person (disbursing entity) who arranges for the money or property to be made available or at which the money or property is, or is to be, made available to the ultimate transferee entity;
- (8) the date on which the money or property becomes accessible for the disbursing entity to make available to the ultimate transferee entity, if known;
- (9) if the ultimate transferee entity is an individual, the ultimate transferee entity's:
- (a) full name;
  - (b) date of birth, if known;
  - (c) address (not being a post box address);
  - (d) postal address, if different from subparagraph 17.2(9)(c), if known;
  - (e) telephone number, if known;
  - (f) email address, if known;
- (10) if the ultimate transferee entity is a non-individual:
- (a) the name of the ultimate transferee entity and any business name under which the ultimate transferee entity is operating;
  - (b) a description of the legal form of the ultimate transferee entity and any business structure it is a part of, for the purposes of its main business activities, if known (for example, partnership, trust or company);
  - (c) the business or principal activity of the ultimate transferee entity, if known;
  - (d) the address (not being a post box address) of the ultimate transferee entity at which it carries on business or its principal place of business;
  - (e) the ultimate transferee entity's postal address if different from subparagraph 17.2(10)(d), if known;
  - (f) the ultimate transferee entity's telephone number, if known;
  - (g) the ultimate transferee entity's email address, if known;
- (11) if money is to be transferred:
- (a) the amount referred to in the instruction;
  - (b) the currency of the amount referred to in the instruction;

(12) if property is to be transferred (transferred property):

- (a) a description of the transferred property referred to in the instruction;
- (b) the value of the transferred property referred to in the instruction;
- (c) the currency used to value the transferred property referred to in the instruction;

(12A) if money is to be made available to the ultimate transferee entity by a person in a foreign country depositing or arranging for the money to be deposited into an account held by the ultimate transferee entity with that person, whether or not the account is held jointly with any other person or persons:

- (a) the account number of that account, if applicable;
- (b) the name in which the account is held, if applicable;
- (c) the name and location of the institution at which the account is held;

(12B) any reference number allocated by the non-financier to the instruction;

(13) any information given in the instruction about the reasons for transferring the money or property.

#### *Instructions transmitted into Australia*

17.3 A report about an international funds transfer instruction (the instruction), within the meaning of item 4 in the table in section 17.2 of the AML/CTF Act, must contain:

(1) if the transferor entity is an individual:

- (a) the transferor entity's name;
- (b) any other name used by the transferor entity, if known;
- (c) the transferor entity's date of birth, if known;
- (d) the transferor entity's address (not being a post box address);
- (e) the transferor entity's postal address, if different from the address in subparagraph 17.3(1)(d), if known;
- (f) the transferor entity's telephone number, if known;
- (g) the transferor entity's email address, if known;
- (h) the transferor entity's occupation, business or principal activity, if known;

(2) if the transferor entity is a non-individual:

- (a) the name of the transferor entity and any business structure under which the transferor entity is operating;
- (b) a description of the legal form of the transferor entity and any business structure it is a part of, for the purposes of its main business activities, if known (for example, partnership, trust or company);

- (c) the business or principal activity of the transferor entity, if known;
  - (d) the address (not being a post box address) of the transferor entity at which it carries on business, or its principal place of business;
  - (e) the transferor entity's postal address, if different from subparagraph 17.3(2)(d), if known;
  - (f) the transferor entity's telephone number, if known;
  - (g) the transferor entity's email address, if known;
- (3) for a person in a foreign country who accepts the instruction from the transferor entity for the transfer of money or property (foreign entity):
- (a) if the foreign entity is an individual:
    - (i) the foreign entity's full name;
    - (ii) any other name used by the foreign entity, if known;
    - (iii) the foreign entity's date of birth, if known;
    - (iv) the foreign entity's address (not being a post box address);
    - (v) the foreign entity's postal address, if different from subparagraph 17.3(3)(a)(iv), if known;
    - (vi) the foreign entity's telephone number, if known;
    - (vii) the foreign entity's email address, if known;
    - (viii) the foreign entity's occupation, business or principal activity, if known;
  - (b) if the foreign entity is a non-individual:
    - (i) the name of the foreign entity and any business name under which the foreign entity is operating;
    - (ii) a description of the legal form of the foreign entity and any business structure it is a part of for the purposes of its main business activities, if known (for example, partnership, trust or company);
    - (iii) the business or principal activity of the foreign entity, if known;
    - (iv) the address (not being a post box address) of the foreign entity at which it carries on business, or its principal place of business;
    - (v) the foreign entity's postal address, if different from subparagraph 17.3(3)(b)(iv), if known;
    - (vi) the foreign entity's telephone number, if known;
    - (vii) the foreign entity's email address, if known;
- (4) the date on which the foreign entity accepts the instruction from the transferor entity, if known;

- (5) the identifier (if applicable), and/or the name and address (not being a post box address) of the foreign entity at which the instruction is accepted from the transferor entity, if applicable and known;
- (5A) the number of the transferor entity's account held with the foreign entity which accepts the instruction from the transferor entity, if applicable;
- (6) where a person (other than the foreign entity) transmits the instruction for the transfer of money or property under the designated remittance arrangement (transmitter):
  - (a) if the transmitter is an individual:
    - (i) the transmitter's full name, if known;
    - (ii) any other name used by the transmitter, if known;
    - (iii) the transmitter's date of birth, if known;
    - (iv) the transmitter's address (not being a post box address), if known;
    - (v) the transmitter's postal address, if different from subparagraph 17.3(6)(a)(iv), if known;
    - (vi) the transmitter's telephone number, if known;
    - (vii) the transmitter's email address, if known;
    - (viii) the transmitter's occupation, business or principal activity, if known;
  - (b) if the transmitter is a non-individual:
    - (i) the name of the transmitter and any business name under which the transmitter is operating, if known;
    - (ii) a description of the legal form of the transmitter and any business structure it is a part of, for the purposes of its main business activities, if known (for example, partnership, trust or company);
    - (iii) the business or principal activity of the transmitter, if known;
    - (iv) the address (not being a post box address) of the transmitter at which it carries on business, or its principal place of business, if known;
    - (v) the transmitter's postal address, if different from subparagraph 17.3(6)(b)(iv), if known;
    - (vi) the transmitter's telephone number, if known;
    - (vii) the transmitter's email address, if known;
- (6A) the name and address of the entity in Australia to which the instruction for the transfer of money or property was sent by the transmitter;
- (7) the date on which the non-financier arranges for the money or property to be made available or makes or is to make the money or property available to the ultimate transferee entity.

- money or property available to the ultimate transferee entity
- (8) the name and full address (not being a post box address) of the non-financier (receiver) who arranges for the money or property to be made available or that makes or is to make money or property available to the ultimate transferee entity in Australia;
  - (9) the identifier (if applicable), and/or the name and address (not being a post box address) of the person, if different from subparagraph 17.3(8), at which the money or property is made or is to be made available to the ultimate transferee entity in Australia;
  - (10) if the ultimate transferee entity is an individual, the ultimate transferee entity's:
    - (a) full name;
    - (b) date of birth, if known;
    - (c) full residential address (not being a post box address) known;
    - (d) postal address, if different from subparagraph 17.3(8)(c), if known;
    - (e) telephone number, if known;
    - (f) email address, if known;
    - (g) occupation, business or principal activity and ABN, if known;
  - (11) if the ultimate transferee entity is a non-individual:
    - (a) the name of the ultimate transferee entity and any business name under which the ultimate transferee entity is operating;
    - (b) a description of the legal form of the ultimate transferee entity and any business structure it is a part of, for the purposes of its main business activities, if known (for example, partnership, trust or company);
    - (c) the business or principal activity of the ultimate transferee entity, if known;
    - (d) the full address (not being a post box address) of the ultimate transferee entity at which it carries on business or its principal place of business, if known;
    - (e) the ultimate transferee entity's postal address, if different from subparagraph 17.3(11)(d), if known;
    - (f) where the ultimate transferee entity has an ACN or ARBN – that number;
    - (g) where the ultimate transferee entity has an ABN – that number;
    - (h) the ultimate transferee entity's telephone number, if known;
    - (i) the ultimate transferee entity's email address, if known;
  - (12) if money is to be transferred:

- (a) the amount referred to in the instruction;
- (b) the currency of the amount referred to in the instruction;
- (13) if property is to be transferred (transferred property):
  - (a) a description of the transferred property referred to in the instruction;
  - (b) the value of the transferred property referred to in the instruction;
  - (c) the currency used to value the transferred property referred to in the instruction;
- (13A) if money is to be made available to the ultimate transfer entity by a person in Australia depositing or arranging for money to be deposited into an account held by the ultimate transferee entity with that person, whether or not held jointly with any other person or persons:
  - (a) the account number of that account, if applicable;
  - (b) the name in which the account is held, if applicable;
  - (c) the name and location of the institution at which the account is held;
- (13B) any reference number allocated by the reporting entity in the instruction;
- (14) any information given in the instruction about the reasons for transferring the money or property.

17.4 A report under subsection 45(2) of the AML/CTF Act must contain the following details about the person completing the report:

- (1) Full name;
- (2) Job title or position;
- (3) Telephone number; and
- (4) Email address.

17.5 In this Chapter:

- (1) 'identifier' means a Bank Identifier Code (BIC), a Bank-Swift Branch identifying code (BSB) or Branch Registration Number (BRN) previously registered with AUSTRAC.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

(Rules commencing on 12 December 2008)

18.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML Act) for paragraph 41(3)(b) of that Act.

18.2 A suspicious matter report must contain the following information:

- (1) a statement of whether the person (first person) is a customer of the reporting entity;
- (2) a statement of whether the first person has requested the reporting entity to provide a designated service to the first person and that service is of a kind ordinarily provided by the reporting entity;
- (3) a statement of whether the first person enquired of the reporting entity whether it would be willing or prepared to provide the designated service to the first person and that service is of a kind ordinarily provided by the reporting entity;
- (4) a statement of whether the reporting entity has commenced to provide or proposes to provide the designated service to the first person;
- (5) a description of any conditions in paragraphs 41(1)(d) to 41(1)(g) of the AML/CTF Act that relate to the provision or prospective provision of the designated service by the reporting entity (suspicious matter);
- (6) a description of any designated service to which the suspicious matter relates;
- (7) a description of the reasonable grounds for suspicion relating to the suspicious matter;

*Individual*

- (8) if the first person is an individual:
  - (a) the full name of the first person, if known;
  - (b) the telephone number of the first person, if known;
  - (c) the full address of the first person (not being a postal address), if known;
  - (d) the postal address of the first person, if different from subparagraph 18.2(8)(c), if known;
  - (e) the date of birth of the first person, if known;
  - (f) the country of citizenship of the first person, if known;
  - (g) the occupation, business or principal activity and AML/CTF risk of the first person, if known;
  - (h) any other name used by the first person, if known;
  - (i) the email address of the first person, if known;
  - (j) a description of the reliable and independent



documentation and/or electronic data source(s) relied upon to verify the identity of the first person, if applicable;

*Individual – where identity cannot be established*

- (9) if the first person is an individual whose identity cannot be established; for example, where the provision or prospective provision of the designated service to which the suspicious matter relates occurred in a face-to-face circumstance:
- (a) a description of the first person;
  - (b) a statement of whether any relevant documentation exists including a video or photograph, if known and by the reporting entity;
  - (c) a description of any such relevant documentation relating to the first person, if known;
  - (d) the address of the first person (not being a post box address), if known;
  - (e) the email address of the first person, if known;

*Non-individual*

- (10) if the first person is not an individual:
- (a) the name of the first person and any business name under which the first person is operating, if known;
  - (b) a description of the legal form of the first person or any business structure it is a part of, for the purpose of its main business activities, if known (for example, partnership, trust or company);
  - (c) the business or principal activity of the first person, if known;
  - (d) the full address of the first person (not being a post box address), at which the person carries on business, or principal place of business, if known;
  - (e) the postal address of the first person, if different from subparagraph 18.2(10)(d), if known;
  - (f) the telephone number of the first person, if known;
  - (g) where the first person has an ACN or ARBN – that number, if known;
  - (h) where the first person has an ABN – that number, if known;
  - (i) a description of any documentation relating to the first person to which the suspicious matter relates, if known;
  - (j) the name(s) of the beneficial owner(s) of the first person, if known;
  - (k) the name(s) of the office holder(s) of the first person, if known;
  - (l) the country at which the first person was incorporated or formed or registered, if known;

- (m) the email address of the first person, if known;
- (n) a description of the reliable and independent documentation and/or electronic data source(s) relied upon to verify the identity of the first person, if applicable;

*Agent*

- (11) a statement of whether a person dealing with the reporting entity in relation to the provision or proposed provision of a designated service to which a suspicious matter relates, is an agent of the first person (agent);
- (12) Where subparagraph 18.2(11) applies:
  - (a) a statement of whether the agent is a customer of the reporting entity;
  - (b) a description of the relationship between the agent and the first person, if known;
  - (c) a description of any evidence of the first person's authorisation of the agent, if known;

*Agent – individual*

- (13) If the agent is an individual:
  - (a) the full name of the agent, if known;
  - (b) the date of birth of the agent, if known;
  - (c) the full address of the agent (not being a post box address), if known;
  - (d) the postal address of the agent, if different from subparagraph 18.2(13)(c), if known;
  - (e) the telephone number of the agent, if known;
  - (f) the email address of the agent, if known;
  - (g) the country of citizenship of the agent, if known;
  - (h) the occupation, business or principal activity and Address of the agent, if known;
  - (i) any other name(s) used by the agent, if known;
  - (j) a description of any reliable and independent documentation and/or electronic data source(s) relied upon to verify the identity of the agent, if applicable;

*Agent – where identity cannot be established – individual*

- (14) if the agent's identity cannot be established; for example, where the provision or prospective provision of the designated service to which the suspicious matter relates occurred in a face-to-face circumstance:
  - (a) a description of the agent, if applicable;
  - (b) a statement of whether any relevant documentation exists including a video or photograph, if known and obtained by the reporting entity;

- (c) a description of any such relevant documentation relating to the agent, if known;
- (d) the address of the agent (not being a post box address), at which the person carries on business, or principal place of business, if known;
- (e) the email address of the agent, if known;

*Agent – non-individual*

(15) if the agent is not an individual:

- (a) the name of the agent and any business name(s) under which the agent is operating, if applicable;
- (b) a description of the legal form of the agent and any business structure it is a part of, for the purposes of its main business activities, if known (for example, partnership, trust or company);
- (c) the business or principal activity of the agent, if applicable;
- (d) the full address of the agent (not being a post box address), at which the person carries on business, or principal place of business, if known;
- (e) the postal address of the agent, if different from subparagraph 18.2(15)(d), if known;
- (f) where the agent has an ACN or ARBN – that number, if known;
- (g) where the agent has an ABN – that number, if known;
- (h) a description of any documentation relating to the agent to which the suspicious matter relates, if known;
- (i) the telephone number of the agent, if known;
- (j) the email address of the agent, if known;
- (k) the country in which the agent was incorporated, formed or registered, if known;
- (l) the name(s) of beneficial owner(s) of the agent, if known;
- (m) the name(s) of office holder(s) of the agent, if known;
- (n) a description of any reliable and independent documentation and/or electronic data source(s) relied upon to verify the identity of the agent, if applicable;

*Other relevant information*

(16) the date(s) on which any of the following occurs in respect of the designated service to which the suspicious matter relates:

- (a) the reporting entity commences to provide or proposes to provide the designated service to the first person;
- (b) the first person requests the reporting entity to provide the designated service, of a kind ordinarily provided by the reporting entity, to the first person; or
- (c) the first person enquires of the reporting entity whether it would be willing or prepared to provide the designated service to the first person;

it would be willing or prepared to provide the designated service, of a kind ordinarily provided by the reporting entity, to the first person; or

- (d) the agent deals with the reporting entity in relation to the provision or prospective provision of the designated service;
- (17) the reporting entity's identifier number (where applicable) or reference number relating to the provision or prospective provision of the designated service to which the suspicious matter relates;
- (18) where an account provided by a reporting entity or another person relates to the designated service to which the suspicious matter relates:
  - (a) the name appearing on the account;
  - (b) the name of the provider of the account, if known;
  - (c) a description of the account, if known;
  - (d) the account number, if known;
  - (e) the name(s) of signatory(ies) to the account, if known;
  - (f) the BSB number of the account, if applicable and known;
  - (g) the date on which the account was opened, if known;
  - (h) a description of any documentation relating to the account, if known;
  - (i) the balance(s) of the account on the date(s) to which the suspicious matter relates, if known;
- (19) the total amount related to the designated service to which the suspicious matter relates, in Australian dollars and/or foreign currency;
- (20) where the total amount consists of components, for such as the components which relate to the grounds for the suspicion, if applicable and known:
  - (a) a description of each of the components;
  - (b) the amount of each of the components in Australian dollars;
  - (c) the type of foreign currency and amount of the foreign currency, where applicable, in relation to each of the components;
  - (d) the name of the drawer or issuer of each of the components, if applicable;
  - (e) the name and branch of the institution or foreign financial institution at which each of the components was, drawn or issued, if applicable;
  - (f) the country in which the branch referred to in subparagraph 18.2(20)(e) is located;
  - (g) the name of the payee of each of the components, where applicable;

- (h) if the payee of each of the components is not the beneficiary, the full name of the beneficiary, if known;
  - (i) the date on which each of the components occurs;
- (21) if applicable, where money or property is transferred or is to be transferred under the provision or prospective provision relating to the designated service to which the suspicious matter relates:
- (a) the full name of the sender;
  - (b) the full address of the sender (not being a post box address);
  - (c) the postal address of the sender, if different from subparagraph 18.2(21)(b), if known;
  - (d) the telephone number of the sender, if known;
  - (e) the email address of the sender, if known;
  - (f) a statement of whether the money was transferred or is to be transferred;
  - (g) a statement of whether the property was transferred or is to be transferred;
  - (h) a description of the property which is or is to be transferred;
  - (i) the account number of the sender from which money or property is transferred or is to be transferred, or where an account does not exist, a unique reference number relating to the transfer of money or property;
  - (j) the name of the institution or entity that issued the account referred to in subparagraph 18.2(21)(i);
  - (k) the full name of any payee, if known;
  - (l) if the payee is not the beneficiary, the full name of the beneficiary, if known;
  - (m) the full address of the payee and/or beneficiary (not being a post box address), if known;
  - (n) the postal address of the payee and/or beneficiary, if different from subparagraph 18.2(21)(m), if known;
  - (o) the account number of the beneficiary and/or payee;
  - (p) the name of the institution or entity that issued the account referred to in subparagraph 18.2(21)(o);
  - (q) the country in which the institution or entity referred to in subparagraph 18.2(21)(p) is located;
  - (r) the date on which the money or property is transferred or is to be transferred;
- (21A) where the designated service involves digital currency:
- (a) the denomination or code of the digital currency and the number of digital currency units;
  - (b) the value of the digital currency involved in the transaction, expressed in Australian dollars, if known;

- (c) a description of the digital currency including details of the backing asset or thing, if known;
  - (d) the Internet Protocol (IP) address information of the person, if known;
  - (e) the social media identifiers of the first person, if known;
  - (f) the unique identifiers relating to the digital currency wallet(s) of the first person, if known; and
  - (g) the unique device identifiers of the first person relating to or arising from the transaction, if known;
- (22) if another institution, entity or intermediary was involved in the reporting entity's provision or prospective provision of the designated service to which the suspicious matter relates:
- (a) the full name of the other institution, entity or intermediary;
  - (b) the branch name or country of the other institution, entity or intermediary;
  - (c) the country of the branch of the other institution, entity or intermediary, if the country is not Australia;
- (23) the name of the reporting entity;
- (24) the full address and branch of the reporting entity (not including a post box address), at which any of the following applies:
- (a) the reporting entity commences to provide or propose to provide the designated service (to which the suspicious matter relates) to the first person; or
  - (b) the first person requests the reporting entity to provide the designated service (to which the suspicious matter relates), of a kind ordinarily provided by the reporting entity, to the first person; or
  - (c) the first person enquires of the reporting entity whether it would be willing or prepared to provide the designated service (to which the suspicious matter relates), of a kind ordinarily provided by the reporting entity, to the first person; or
  - (d) the agent deals with the reporting entity in relation to the provision or the prospective provision of the designated service (to which the suspicious matter relates);
- (27) if a suspicious matter has been reported or is to be reported to an Australian government body that has responsibility for law enforcement referred to in paragraph 123(9)(b) of the AML/CTF Act:
- (a) a description of the Australian government body;
  - (b) the address of the Australian government body;
  - (c) a description of the information which was provided to the Australian government body;
  - (d) the date on which the suspicious matter is to be, or

reported;

(28) where a suspicious matter reporting obligation has previously arisen for the reporting entity in relation to the first person and was previously reported to AUSTRAC under section 41 of the AML/CTF Act:

- (a) the date on which the suspicious matter was reported known;
- (b) any identifier number or reference number given by the reporting entity to the previous report, if known.

18.3 A report under subsection 41(2) of the AML/CTF Act must contain the following details about the person completing the report:

- (1) full name;
- (2) job title or position;
- (3) telephone number; and
- (4) email address.

18.4 In this Chapter:

- (1) 'Digital currency wallet' means any service that allows a person to send, request, receive, or store digital currency;
- (2) 'Unique device identifiers' includes Media Access Control (MAC) addresses, International Mobile Equipment Identity (IMEI), International Mobile Subscriber Identity (IMSI) numbers, and secure element ID (SEID) numbers.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Reportable details for threshold transactions**

19.1 This Chapter commences on 1 October 2011.

*Note: For obligations and liabilities under the Rules in Chapter 19 in force on 30 September 2011, see subsection 7(2) of the Acts Interpretation Act 1901.*

19.2 These Rules are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for paragraph 43(3)(b) of that Act.

19.3 Subject to paragraph 19.4, a report under subsection 43(2) of the AML/CTF Act must contain the following details about a threshold transaction:

- (1) if the customer of the designated service is an individual:
  - (a) the customer's full name;

- (b) any other name used by the customer, if known;
  - (c) any business name(s) under which the customer operates, if known;
  - (d) the customer's date of birth;
  - (e) the customer's full address (not being a post box address);
  - (f) the postal address of the customer if different from that in 19.3(1)(e), if known;
  - (g) the customer's telephone number, if known;
  - (h) the ABN of the customer, if known;
  - (i) if the person conducting the threshold transaction is not the customer, the details of the person specified in subparagraph 19.3(15)(a) and if applicable, 19.3(15)(b) and 19.3(15)(c), of these Rules;
- (2) if the customer who is conducting the transaction is a signatory to the account but not the account holder, only the following details are required:
- (a) full name;
  - (b) any other name used by the signatory, if known;
  - (c) date of birth;
  - (d) full address (not being a post box address);
  - (e) the postal address of the signatory if different from that in 19.3(2)(d);
  - (f) telephone number, if known;

*Note: Where 19.3(2) applies, the details of the customer who is the account holder must be supplied under subparagraphs 19.3(1)(b) to 19.3(1)(i).*

- (3) if the customer of the designated service is not an individual:
- (a) the name of the customer and any business name under which the customer operates;
  - (b) a description of the legal form of the customer and any business structure it is a part of, for the purpose of its main business activities, if known (for example, partnership, trust or company);
  - (c) the full address of the customer's principal place of business (not being a post box address), if applicable;
  - (d) the postal address of the customer if different from that in 19.3(3)(c), if known;
  - (e) the ACN, ARBN and/or ABN of the customer, if known;
  - (f) the customer's telephone number, if known;
  - (g) the details of the person conducting the threshold transaction;



transaction specified in subparagraph 19.3(15)(a) if applicable, 19.3(15)(b) and 19.3(15)(c), of these Rules;

- (4) the occupation, business or principal activity of the customer or the relevant industry or occupation code(s) that applies to the customer's business or occupation, known, such as (without limitation):
  - (a) the Australian Bureau of Statistics in the Australian Standard Industrial Classification (ANZSIC) 2006 (as amended); or
  - (b) the relevant industry code that applies to the customer's business as published by the Australian Bureau of Statistics in the Australian Standard Classification of Occupations (ASCO) (as amended from time to time);
- (5) the date of the threshold transaction;
- (6) a description of the designated service provided or commenced to be provided by the reporting entity to the customer which involves the threshold transaction;
- (7) where applicable, the total of each of the following amounts, and the sum of these amounts, provided to or received from the customer relating to the threshold transaction:
  - (a) money, including the total of each component thereof, and the type and total of each currency where a component is physical currency;
  - (b) international funds transfers;
  - (c) subject to 19.3(7)(f), cheques;
  - (d) subject to 19.3(7)(f), bank cheques;
  - (e) subject to 19.3(7)(f), bank drafts;
  - (f) if the amount of 19.3(7)(c), (d) or (e) cannot be ascertained individually, the sum of those amounts;
  - (g) traveller's cheques;
  - (h) money or postal orders;
  - (i) hire purchase or finance lease payments;
  - (j) negotiable debt instruments;
  - (k) benefit payments or payouts;
  - (l) contributions or premiums;
  - (m) derivatives or futures;
  - (n) securities;
  - (o) bullion;
  - (p) stored value cards (including whether the card issued or topped up);
  - (q) gambling chips or tokens;

- (r) electronic gaming machine payouts;
  - (s) winning tickets from wagering;
  - (t) buying into a game (for a gambling service);
  - (u) placing a bet; and
  - (v) any other value;
- (8) all of the following details, as applicable to the threshold transaction:
- (a) where the threshold transaction involves physical currency:
    - (i) the total amount in Australian dollars;
    - (ii) if the amount involves foreign currency, a description and amount of the currency;
    - (iii) the name(s) of the recipient(s);
    - (iv) the full address(es) of the recipient(s) (not being a post box address), if known;
    - (v) the date(s) of birth of the recipient(s), if known;
    - (vi) a description of the purpose of the transfer;
    - (vii) if the purpose of the transfer(s) is to:
      - (a) enable a cheque to be provided to the customer using all or part of the physical currency transferred by the customer;
      - (b) enable the customer to receive physical currency in exchange for all or part of a cheque produced by the customer to the reporting entity;
- the following details:
- (c) the name of the drawer;
  - (d) the name of the drawee; and
  - (e) the amount of the cheque;
- (b) where the threshold transaction involves digital currency:
    - (i) the denomination or code of the digital currency and the number of digital currency units;
    - (ii) the value of the digital currency involved in the transaction, expressed in Australian dollars, if known;
    - (iii) a description of the digital currency including details of the backing asset or thing, if known;
    - (iv) the name(s) of the recipient(s);
    - (v) the full address(es) of the recipient(s) (not being a post box address), if known;

being a post box address), if known;

- (vi) the date(s) of birth of the recipient(s), if known;
- (vii) a description of the purpose of the transfer;
- (viii) if the purpose of the transfer(s) is to:

- (a) enable a cheque to be provided to the customer using all or part of the digital currency transferred by the customer; or

- (b) enable the customer to receive digital currency in exchange for all or part of a cheque produced by the customer to the reporting entity;

the following details:

- (c) the name of the drawer;
    - (d) the name of the drawee; and
    - (e) the amount of the cheque;
  - (ix) the Internet Protocol (IP) address information of the customer and the recipient(s), if known;
  - (x) the email address of the customer and the recipient(s), if known;
  - (xi) the mobile phone number of the customer and the recipient(s), if known;
  - (xii) the social media identifiers of the customer and the recipient(s), if known;
  - (xiii) the unique identifiers relating to the digital currency wallet(s) of the customer and the recipient(s), if known;
  - (xiv) the unique device identifiers of the customer and the recipient(s), if known;

- (c) where the threshold transaction is of a kind specified in the regulations involving money:

- (i) the total amount in Australian dollars;
  - (ii) if the amount involves foreign currency, a description and amount of the currency;
  - (iii) a description of the type of specified transaction;
  - (iv) the name(s) of the recipient(s);
  - (v) the full address(es) of the recipient(s) (not being a post box address), if known;
  - (vi) the date(s) of birth of the recipient(s), if known;
  - (vii) a description of the purpose of the transfer;
  - (viii) if the purpose of the transfer(s) is to:
    - (a) enable a cheque to be provided to the customer using all or part of the money transferred by the customer; or

- (b) enable the customer to receive more in exchange for all or part of a cheque produced by the customer to the reporting entity;

the following details:

- (c) the name of the drawer;
- (d) the name of the drawee; and
- (e) the amount of the cheque;

- (d) where the threshold transaction is of a kind specified in the regulations involving the transfer of property:

- (i) a description of the type of specified transaction;
- (ii) the value of the transferred property in Australian dollars;
- (iii) if value of the transferred property involves foreign currency, a description and amount in the currency;
- (iv) the name(s) of the recipient(s);
- (v) the full address(es) of the recipient(s) (not being a post box address), if known;
- (vi) the date(s) of birth of the recipient(s), if known;
- (vii) a description of the purpose of the transfer;
- (viii) if the purpose of the transfer(s) is to:
  - (a) enable a cheque to be provided to the customer using all or part of the property transferred by the customer; or
  - (b) enable the customer to receive property in exchange for all or part of a cheque produced by the customer to the reporting entity;

the following details:

- (c) the name of the drawer;
- (d) the name of the drawee; and
- (e) the amount of the cheque;

- (9) a description of any account opened by the reporting entity that involves the threshold transaction including the account's identifying number;
- (10) the name and if applicable, identifying number of the reporting entity;
- (11) the name and if applicable, identifying number of the reporting entity at which the threshold transaction was conducted;

- (12) the address of the reporting entity at which the threshold transaction was conducted;
- (13) any identifying or transaction number assigned to the threshold transaction;
- (14) a description of the reliable and independent documentation and/or electronic data source(s) relied on to verify the identity of the customer, if applicable;

*Individual conducting the threshold transaction is not the customer*

- (15) subject to 19.3(17), all of the following details, where applicable, of the threshold transaction conducted by an individual who is not the customer:
  - (a) if the person conducting the threshold transaction is an individual:
    - (i) the individual's full name;
    - (ii) any other name used by the person, if known;
    - (iii) the individual's date of birth, if known;
    - (iv) the individual's full address (not being a post box address), if known;
    - (v) the postal address of the individual if different from that in 19.3(15)(a)(iv), if known;
    - (vi) the individual's telephone number, if known;
    - (vii) a description of evidence of agency authorisation of the individual, if any and known;
    - (viii) unless 19.3(15)(b)(ii) or 19.3(15)(c)(iv) applies, the person's occupation or principal activity, if known;
  - (b) if the individual is an employee acting on behalf of the customer, the following details in addition to those specified in subparagraph 19.3(15)(a):
    - (i) a statement of whether the person is conducting the transaction as an employee of the customer;
    - (ii) the individual's title, role or position held on behalf of the customer, if known;
  - (c) if the individual is acting on behalf of a non-individual entity that is not the customer, the following details in addition to those specified in subparagraph 19.3(15)(a):
    - (i) the full name of the entity or business name under which the entity operates, if known;
    - (ii) the full address of the non-individual entity (not being a post box address), if known;
    - (iii) a description of evidence of agency authorisation of the non-individual entity to act on behalf of the customer, if any and known;

- (iv) the individual's title, role or position held in the non-individual entity, if known;
- (v) the ACN, ARBN and/or ABN of the non-individual entity, if known;
- (vi) a statement of whether the person who is conducting the transaction is acting on behalf of the non-individual entity;

- (16) a description of the reliable and independent documentation and/or reliable and independent electronic data relied upon to verify the identity of the individual referred to in subparagraph 19.3(15), if applicable;

*Information required in certain circumstances*

- 19.3 (17) (a) where a threshold transaction occurs in the circumstances specified in subparagraph 19.3(15) in relation to the transaction:
- (i) involves a deposit service carried out in non-face to face circumstances by the individual;
  - (ii) relates to the provision of a service of collecting, holding, or delivery (including of rolls) of physical currency, collected from, held on behalf of, or delivered to a person in the course of carrying on a business of collecting, holding, or delivering physical currency, and physical currency was not collected:
    - (A) by the provider of the service as consideration for the supply of goods or services (within the meaning of the *Competition and Consumer Act 2010*) other than the service of collecting or holding physical currency; or
    - (B) as a donation to a registered charity.
  - (b) the provision of the following details, in addition to the details in 19.3(1)-(14), only:
    - (i) a statement that the circumstances in 19.3(17)(a)(i) or (ii) apply.

*Note: Where a reporting entity is unable to ascertain whether the circumstances in 19.3(17)(a) applies, the reporting entity can assume that the transaction was carried out by the customer.*

19.4 If the threshold transaction arises under a designated service that is of a kind described in item 3 of table 1 in subsection 6 of the AML/CTF Act, the reference to 'customer' in subparagraphs 19.3(2) to 19.3(14) inclusive will be taken, in the first instance, to refer only to the holder of the account and the signatory (if any) conducting the transaction in relation to the account, provided that:

- (1) if there are other signatories to the account, the AUSTRAC CEO may require the reporting entity to give the AUSTRAC CEO, in the form of a supplement to the subsection 43(2) report, the same information that was submitted for the signatory conducting the transaction out in subparagraphs 19.3(2)(a) to (f) in respect of the

signatories; and

- (2) nothing in paragraph 19.4 prevents a person (including the AUSTRAC CEO) from exercising his or her power under the AML/CTF Act (including under section 49) to obtain further information or documents, including information or documents about the other signatories (if any) to the account.

19.5 A report under subsection 43(2) of the AML/CTF Act must contain the following details about the person completing the report:

- (1) full name;
- (2) job title or position;
- (3) telephone number; and
- (4) email address.

19.6 In this Chapter:

- (1) 'Digital currency wallet' means any service that allows a person to send, request, receive, or store digital currency;
- (2) 'Non-face to face circumstances' includes the use of an automated teller machine or night or express deposit facility;
- (3) 'Unique device identifiers' includes Media Access Control (MAC) addresses, International Mobile Equipment Identity (IMEI), International Mobile Subscriber Identity (IMSI) numbers, and secure element ID (SEID) numbers.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Record-keeping obligations under section 114**

20.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of subsection 247(4) of the Act.

20.2 Pursuant to subsection 247(4) of the AML/CTF Act, subsections 114(2), 114(3) and 114(5) of that Act do not apply to a designated service which is, or is to be, provided in circumstances described in paragraphs 114(1)(a), 114(1)(b) and 114(1)(c), if the second reporting entity has:

- (1) access to records of identification procedures made by the first reporting entity in accordance with subsection 112(1) under an agreement in place for the management of identification records; and
- (2) determined that it is appropriate for it to rely upon the

(c) determined that it is appropriate for it to rely upon the applicable customer identification procedure carried out by the first reporting entity having regard to the ML/TF risks faced by the second reporting entity relevant to the provision of the designated service to the customer.

20.3 In this Chapter:

- (1) 'first reporting entity' means the reporting entity referred to in paragraph 114(1)(a) of the AML/CTF Act; and
- (2) 'second reporting entity' means the reporting entity referred to in paragraph 114(1)(b) of the AML/CTF Act.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

## **Issuing or selling a security or derivative**

### **Anti-Money Laundering and Counter-Terrorism Financing Rules for issuing or selling a security or derivative**

21.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for paragraph (d) of item 35 of table 1 in subsection 6(2) of that Act.

21.2 For paragraph (d) of item 35 of table 1 in subsection 6(2) of the AML/CTF Act, the condition applies that the service is not a disposal of a security or derivative through an agent who is doing so in the course of carrying on a business of disposing of securities or derivatives in the capacity of agent, within the terms of item 35 of table 1 in subsection 6(2) of that Act.

21.3 For subsection 247(3) of the AML/CTF Act, the following designated services provided in any of the following circumstances are specified:

- (1) a person issuing or selling a security or derivative to another person (transaction) under item 35 of table 1 in subsection 6(2) of the AML/CTF Act and the transaction occurs:
  - (a) on a prescribed financial market; or
  - (b) on a financial market in a foreign jurisdiction where:
    - (i) the financial market uses a proprietary system to facilitate the transaction; and
    - (ii) as a result of the use of that proprietary system it is not reasonably practicable to conduct the applicable customer identification procedure on the customer in that jurisdiction; or
- (2) an issue of an interest in a managed investment scheme



(including an option to acquire an interest in a managed investment scheme) where the managed investment scheme is quoted on a prescribed financial market, in the following circumstances:

- (a) the issue is in accordance with relevant requirements of the *Corporations Act 2001* pursuant to a dividend or distribution plan (also known as a distribution reinvestment plan); and
  - (b) the interest is to be quoted on a prescribed financial market; or
- (3) an issue of an interest in a managed investment scheme (including an option to acquire an interest in a managed investment scheme) where the managed investment scheme is quoted or to be quoted on a prescribed financial market, in the following circumstances:
- (a) the issue is in accordance with relevant requirements of the *Corporations Act 2001* pursuant to fundraising (including an initial public offering and a rights issue) and
  - (b) the interest is to be quoted on a prescribed financial market.
- (4) an issue (but not sale, transfer or redemption) of an interest in a registered managed investment scheme (except for an interest which forms part of a stapled security) covered by item 35 of table 1 in subsection 6(2) of the AML/CTF Act (item 35 designated service) by a reporting entity (first reporting entity) in the following circumstances:
- (a) the processing and settlement of the issue of the interest in the registered managed investment scheme occurs through a MIS service operated:
    - (i) only by:
      - (A) a prescribed financial market; or
      - (B) the operator of a financial market in respect of which an Australian market licence exemption has been made; or
    - (ii) only by both of the persons specified in subparagraphs 21.3(4)(a)(i)(A) and (B);
  - (b) the interest in the registered managed investment scheme is not quoted on a financial market; and
  - (c) the customer of the item 35 designated service has been provided or will be provided with a designated service covered by item 33 of table 1 in subsection 6(2) of the AML/CTF Act by another reporting entity (second reporting entity); and
  - (d) the second reporting entity:
    - (i) is a participant;
    - (ii) has carried out the applicable customer identification procedure in respect to the customer; and

- (iii) has confirmed, through the MIS service, to the first reporting entity, that the applicable customer identification procedure has been carried out for that customer by the second reporting entity; and
- (e) prior to the first reporting entity issuing the interest in the registered managed investment scheme to the customer, the first reporting entity has received, through the MIS service, confirmation from the second reporting entity that the applicable customer identification procedure has been carried out in respect to the customer.

#### 21.4 In this Chapter:

- (1) 'Australian market licence exemption' means an exemption from the financial market licensing provisions in Part 7.2 of the *Corporations Act 2001* granted pursuant to section 79 of that Act;
- (2) 'dividend or distribution plan' has the meaning given by Chapter 19 of the ASX Listing Rules issued, as in force on 1 April 2008, by ASX Limited trading as the Australian Securities Exchange;
- (3) 'initial public offering' in the context of an interest in a managed investment scheme is an offering of that interest by a reporting entity, for the first time, to an applicant who subscribes for that interest, before the interest is quoted in a prescribed financial market;
- (4) 'interest' in a managed investment scheme includes a stapled security whereby one or more financial products are transferred together;
- (5) 'managed investment scheme' has the meaning given in section 9 of the *Corporations Act 2001*;
- (6) 'MIS service' means an electronic facility which:
  - (a) is solely used to receive, process and settle issues, transfers and redemptions of interests in managed investment schemes (and associated receipts and payments); and
  - (b) for an issue of a new interest in a managed investment scheme - requires the applicable customer identification procedure in relation to a customer to be carried out by the second reporting entity; and
  - (c) requires the second reporting entity to, through the service, advise the first reporting entity when the applicable customer identification procedure has been carried out in relation to the customer to whom the interest is to be issued prior to the issue of that interest;
- (7) 'participant' has the meaning given by section 761A of the *Corporations Act 2001*;
- (8) 'prescribed financial market' has the meaning given by section 9 of the *Corporations Act 2001* and includes the Australian Securities Exchange Limited (ACN 000 943 371 000);

- (9) 'registered managed investment scheme' means a managed investment scheme that is registered under section 601E of the *Corporations Act 2001*;
- (10) 'proprietary system' means a system or systems for the electronic trading, clearing and settlement of transactions relating to securities or derivatives;
- (11) 'rights issue' has the meaning given by section 9A of the *Corporations Act 2001*.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Exemption of certain types of transactions relating to the over-the-counter derivatives market**

22.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 247(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

22.2 Subject to paragraph 22.3, the AML/CTF Act does not apply to a designated service that:

- (1) is of a kind described in item 35 of table 1 in section 6 of the AML/CTF Act; and
- (2) relates to the over-the-counter derivatives market in Australia in respect of one or more of the following commodities or products:
  - (a) electricity; or
  - (b) gas; or
  - (c) environmental products; or
  - (d) coal, oil, diesel or other form of fuel used in the generation of electricity by either:
    - (i) the provider of the designated service; or
    - (ii) the customer; or
  - (e) interest rate derivative products; or
  - (f) weather index or scale products relating to precipitation, temperature, wind, humidity or solar exposure; or
  - (g) foreign exchange derivative products; or
  - (h) oil derivative products linked to gas supply contracts.

22.3 The exemption in paragraph 22.2 only applies if:

- (1) the person who provides the designated service:
  - (a) is registered as a Registered Participant under the *National Electricity Rules*; or
  - (b) is a Generator who under Rule 2.9.3 of the *National Electricity Rules* is exempt from registration; or
  - (c) is registered as a Rule Participant under the *Wholesale Electricity Market Rules*; or
  - (d) in a registrable capacity set out in Rule 135A, is registered as a Registered Participant under Rule 135 of the *National Gas Rules*; or
  - (e) in a registrable capacity set out in Rule 135ABA, is registered as a Registered Participant under Rule 135 of the *National Gas Rules*; and
  - (f) one of the following applies:
    - (i) the person holds an AFS licence that authorises the person to provide the designated service; or
    - (ii) the person acts through an agent that holds an AFS licence which authorises that agent to provide the designated service on behalf of the person, or is appointed as an authorised representative under section 916A of the *Corporations Act 2001* to provide the designated service on behalf of the person; or
    - (iii) the person is, by regulation made under section 916A of the *Electricity Industry Act 2004* (WA), exempt from the requirement to hold an AFS licence which authorises that person to provide the designated service; and
- (2) the person who is the customer of the designated service:
  - (a) is registered as a Registered Participant under the *National Electricity Rules*; or
  - (b) is a Generator who under Rule 2.9.3 of the *National Electricity Rules* is exempt from registration; or
  - (c) is registered as a Rule Participant under the *Wholesale Electricity Market Rules*; or
  - (d) in a registrable capacity set out in Rule 135A, is registered as a Registered Participant under Rule 135AE of the *National Gas Rules*; or
  - (e) in a registrable capacity set out in Rule 135ABA, is registered as a Registered Participant under Rule 135AE of the *National Gas Rules*; or
  - (f) is acting on behalf of a person specified in subparagraphs 22.3(2)(a)-(e).

22.4 Subject to paragraph 22.5, the AML/CTF Act does not apply to a designated service that:

- (1) is of a kind described in item 33 of table 1 in section 6 of the AML/CTF Act; and
- (2) relates to the over-the-counter derivatives market in

Australia in respect of one or more of the following commodities or products:

- (a) electricity; or
- (b) gas; or
- (c) environmental products; or
- (d) coal, oil, diesel or other form of fuel used in the generation of electricity by either:
  - (i) the provider of the designated service; or
  - (ii) the customer; or
- (e) interest rate derivative products; or
- (f) weather index or scale products relating to precipitation, temperature, wind, humidity or solar exposure; or
- (g) foreign exchange derivative products; or
- (h) oil derivative products linked to gas supply contracts.

22.5 The exemption in paragraph 22.4 only applies if:

- (1) the person who provides the designated service:
  - (a) is acting in the capacity of an agent of a person who is registered as a Registered Participant under the *National Electricity Rules*; or
  - (b) is acting in the capacity of an agent of a person who is a Generator who under Rule 2.9.3 of the *National Electricity Rules* is exempt from registration; or
  - (c) is acting in the capacity of an agent of a person who is registered as a Rule Participant under the *Wholesale Electricity Market Rules*; or
  - (d) is acting in the capacity of an agent of a person who is in a registrable capacity set out in Rule 135A, and registered as a Registered Participant under Rule 135AE of the *National Gas Rules*; or
  - (e) is acting in the capacity of an agent of a person who is in a registrable capacity set out in Rule 135ABA, and is registered as a Registered Participant under Rule 135AE of the *National Gas Rules*; and
  - (f) one of the following applies:
    - (i) the person holds an AFS licence that authorises that person to provide the designated service; or
    - (ii) the person is appointed as an authorised representative under section 916A of the *Corporations Act 2001* to provide the designated service; or
    - (iii) the person is, by regulation made under section 134 of the *Electricity Industry Act 2004* (WA), exempt from the requirement to hold an AFS licence that authorises that person to provide the designated service; and

- (2) the person who is the customer of the designated service:
  - (a) is registered as a Registered Participant under the *National Electricity Rules*; or
  - (b) is a Generator who under Rule 2.9.3 of the *National Electricity Rules* is exempt from registration; or
  - (c) is registered as a Rule Participant under the *Wholesale Electricity Market Rules*; or
  - (d) in a registrable capacity set out in Rule 135A, is registered as a Registered Participant under Rule 135AE of the *National Gas Rules*; or
  - (e) in a registrable capacity set out in Rule 135ABA, is registered as a Registered Participant under Rule 135AE of the *National Gas Rules*; or
  - (f) is acting in the capacity of an agent of a person specified in subparagraphs 22.5(2)(a)-(e).

22.6 In this Chapter:

- (1) 'AFS licence' refers to an Australian financial services licence granted under section 913B of the *Corporations Act 2001*;
- (2) 'environmental products' are transferable instruments created or recognised under Commonwealth, State or Territory laws which are intended to enhance environmental sustainability, reduce greenhouse gas emissions, increase generation of electricity from renewable sources or encourage the efficient use of energy and including any emissions trading or other scheme;
- (3) 'National Electricity Rules' refers to the Rules made pursuant to the *National Electricity Law* set out in the Schedule to the *National Electricity (South Australia) Act 1996* (SA);
- (4) 'National Gas Rules' refers to the Rules made pursuant to the National Gas Law set out in the Schedule to the *National Gas (South Australia) Act 2008*;
- (5) 'Wholesale Electricity Market Rules' refers to the market rules made under the *Electricity Industry (Wholesale Electricity Market) Regulations 2004* (WA).

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to OAIC or call 1300 363 992.*

## **Anti-Money Laundering and Counter-Terrorism Financing Rules - persons specified as 'non-financiers'**

23.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purpose of paragraph (e) of the definition of 'non-financier' in section 5 of the AML/CTF Act.

23.2 For paragraph (e) of the definition of 'non-financier' in section 5 of the AML/CTF Act, the following persons are specified:

- (1) a person carrying on an accounting practice; or
- (2) a person carrying on a law practice.

23.3 In this Chapter:

- (1) 'accounting practice' means a business carried out by either of the following:
  - (a) an accountant (however described) that supplies professional accounting services; or
  - (b) a partnership or company that uses accountants (however described) to supply professional accounting services;
- (2) 'law practice' means a business carried out by either of the following:
  - (a) a legal practitioner (however described) that supplies professional legal services; or
  - (b) a partnership or company that uses legal practitioners (however described) to supply professional legal services.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Anti-Money Laundering and Counter-Terrorism Financing Rules for movements of physical currency into or out of Australia**

24.1 For the purposes of paragraph 53(8)(b) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, a report in respect of a movement of physical currency into or out of Australia must contain the following information:

- (1) the full name of the person who is to move the physical

currency into or out of Australia (the person);

- (2) if the person is an individual:
  - (a) the person's residential address;
  - (b) the person's residential telephone number;
  - (c) the person's date of birth;
  - (d) the person's place of birth (including the town or city and country of birth);
  - (e) the person's ABN (if any); and
  - (f) the person's country or countries of citizenship;
- (3) if the person is not an individual:
  - (a) the address of the person's registered office or principal place of business;
  - (b) the person's telephone number; and
  - (c) the person's ACN or ARBN or ABN (if any);
- (4) if the person is not an Australian resident—the person's address and telephone number while in Australia;
- (5) the person's occupation, business or principal activity;
- (6) a statement as to whether the physical currency is to be moved into Australia or moved out of Australia;
- (7) if the person is to bring the physical currency into Australia or is to take the currency out of Australia:
  - (a) the unique identifying number of the passport pursuant to which the person is travelling and name of the country that issued that passport;
  - (b) where practicable – the unique identifying number of each other passport held by the person and the country of issue for each passport;
  - (c) the name of the city, town or port in Australia from which the person is to depart or at which the person is to enter;
  - (d) the name of the country and the city, town or port from which, or to which, the physical currency is to be moved;
  - (e) the date on which the person is to bring the currency into or take the currency out of Australia;
  - (f) the number of the flight or the name of the vessel on which the person is to bring the currency into or take the currency out of Australia;
  - (g) the full name, residential address (not being a PO Box address), ACN or ABN or ARBN (where applicable), telephone number, occupation and business or principal activity of any person to whom the physical currency is to be delivered;
  - (h) a statement as to whether the person was requested by a customs officer or police officer to provide the report for the purposes of clause 52.



- (8) if the person is to send the physical currency into or out of Australia:
  - (a) the name of the country and the city, town or port from which the physical currency is to be despatched;
  - (b) the name of the country and the city, town or port to which the physical currency is to be despatched;
  - (c) the means by which the physical currency is to be sent – for example, by post, by ship or through a courier or another person;
  - (d) the name, address and telephone number of the individual or service provider who is to move the physical currency on behalf of the person;
  - (e) if the physical currency is to be shipped – the name of the vessel on which it is to be shipped, if known; and
  - (f) the date on which the physical currency is to be sent into or out of Australia, or – in the case of physical currency being posted – the date on which it was posted;
  - (g) the full name, address (not being a PO Box address), occupation, business or principal activity, telephone number and ACN or ARBN or ABN (to the extent the information is known) of any person to whom the physical currency is to be sent;
- (9) if the person is to move the physical currency into or out of Australia on behalf of another person:
  - (a) the name of that person;
  - (b) if that person is an individual – his or her residential address and residential telephone number;
  - (c) if that person is an individual – his or her ABN (if any);
  - (d) if that person is not an individual:
    - (i) the address and telephone number of that person's registered office or principal place of business;
    - (ii) any ACN or ARBN or ABN of that person (if known);
  - (e) the occupation or the business or principal activity of that person; and
  - (f) the full name, address (not being a PO Box address), occupation, business or principal activity, telephone number and ACN or ARBN or ABN (to the extent the information is known) of the person to whom the physical currency is to be delivered;
- (10) whether the physical currency to be moved is in Australian currency or foreign currency; and
- (11) the name of the currency and the amount as denominated in that currency;

- (1) 'passport' means:
  - (a) a passport issued by the Commonwealth; or
  - (b) a passport or a similar document issued for the purpose of international travel, that:
    - (i) contains a photograph and the signature of the person in whose name the document is issued; and
    - (ii) is issued by a foreign government, the United Nations or an agency of the United Nations.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

### **Anti-Money Laundering and Counter-Terrorism Financing Rules for receipts of physical currency from outside Australia**

25.1 For the purposes of paragraph 55(5)(b) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, a report must contain the following details:

- (1) the full name of the person receiving the physical currency (the person);
- (2) if the person is an individual:
  - (a) the person's residential address;
  - (b) the person's residential telephone number;
  - (c) the person's date of birth;
  - (d) the person's place of birth (including the town or city and country of birth);
  - (e) the person's ABN (if any); and
  - (f) the person's country or countries of citizenship;
- (3) if the person is not an individual:
  - (a) the address of the person's registered office or principal place of business;
  - (b) the person's telephone number; and
  - (c) the person's ACN or ARBN or ABN (if any);
- (4) if the person is not an Australian resident—the person's address and telephone number while in Australia;
- (5) the person's occupation, business or principal activity;
- (6) whether the physical currency being received is in Australian currency or foreign currency.

- (7) the name of the currency and the amount as denominated in that currency;
- (8) the name, address (not being a PO Box address) and telephone number of the person who sent the physical currency to the recipient;
- (9) the means by which the physical currency has been moved to the person from outside Australia – for example, by hand delivery by a person who has travelled to Australia, by post by ship or by courier;
- (10) the name of the person or the service provider who moved the physical currency to the recipient from outside Australia;
- (11) the name of the city, town or port in Australia at which the physical currency was received;
- (12) if the recipient is receiving the physical currency on behalf of another person;
  - (a) the name of that person;
  - (b) if that person is an individual – his or her residential address and residential telephone number;
  - (c) if that person is not an individual:
    - (i) the address and telephone number of that person's registered office or principal place of business;
    - (ii) any ACN or ARBN or ABN of that person (if known);
  - (d) the occupation or the business or principal activity of that person; and
  - (e) the full name, address (not being a PO Box address), occupation, telephone number and business or principal activity of the person to whom the physical currency was to be delivered; and
- (13) if the recipient knows, the date on which the physical currency entered Australia.

25.2 In this Chapter:

- (1) 'passport' means:
  - (a) a passport issued by the Commonwealth; or
  - (b) a passport or a similar document issued for the purpose of international travel, that:
    - (i) contains a photograph and the signature of the person in whose name the document is issued; and
    - (ii) is issued by a foreign government, the United Nations or an agency of the United Nations.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be*

## **Anti-Money Laundering and Counter-Terrorism Financing Rules for movements of bearer negotiable instruments into or out of Australia**

26.1 For the purposes of paragraph 59(2)(b) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, a report in respect of one or more bearer negotiable instruments must contain the following information:

- (1) the full name of the person giving the report (the person);
- (2) the person's residential address;
- (3) if the person is an Australian resident:
  - (a) the person's residential; and
  - (b) business telephone numbers;
- (4) if the person is not an Australian resident—the person's:
  - (a) residential address; and
  - (b) residential telephone number while in Australia;
- (5) the person's date of birth;
- (6) the person's place of birth (including the town or city and country of birth);
- (7) the person's country or countries of citizenship;
- (8) the person's occupation, business or principal activity;
- (9) the unique identifying number of the passport pursuant to which the person is travelling and the name of the country that issued that passport;
- (10) where practicable – the unique identifying number of any other passport held by the person and the country of issue of each passport;
- (11) a statement as to whether the person is leaving or arriving in Australia;
- (12) the name of the city, town or port in Australia from which the person is departing or at which the person is entering Australia;
- (13) the date on which the person is entering or leaving Australia;
- (14) the number of the flight or the name of the vessel on which the person is entering or leaving Australia;
- (15) a description of the type of bearer negotiable instrument;
- (16) the currency in which the bearer negotiable instrument is denominated;
- (17) the amount payable, if any, under the bearer negotiable instrument.

- instrument in that currency;
- (18) the full name of the issuer or drawer of the bearer negotiable instrument;
- (19) the name of the country, and the city or town in that country, at which the bearer negotiable instrument was issued;
- (20) any reference number that appears on the face of the bearer negotiable instrument;
- (21) the name of the country, and the city, town or port in that country, to which the bearer negotiable instrument is being carried;
- (22) the name of the country, and the city, town or port in that country, from which the bearer negotiable instrument is being carried;
- (23) the full name of any payee (where applicable) of the bearer negotiable instrument;
- (24) if the person is to deliver the bearer negotiable instrument to another person:
  - (a) where that other person is an individual:
    - (i) the full name of that individual;
    - (ii) the residential address and residential telephone number of that individual;
    - (iii) if known – the ABN (if any) of that individual; and
    - (iv) the occupation, business or principal activity of that individual;
  - (b) in any other case:
    - (i) the full name of that other person;
    - (ii) the address and telephone number of the registered office or principal place of business of that other person;
    - (iii) if known – the ACN or ARBN or ABN (if any) of that other person; and
    - (iv) the business or principal activity of that other person;
- (25) if the person is carrying the bearer negotiable instrument on behalf of another person:
  - (a) where that other person is an individual:
    - (i) the full name of that individual;
    - (ii) the residential address and residential telephone number of that individual;
    - (iii) if known – the ABN (if any) of that individual; and
    - (iv) the occupation, business or principal activity of that individual;

(b) in any other case:

- (i) the full name and (if known) business name of other person;
- (ii) the address and telephone number of the registered office or principal place of business of that other person;
- (iii) if known – the ACN or ARBN or ABN (if any) of that other person; and
- (iv) the business or principal activity of that other person.

26.2 In this Chapter:

(1) 'passport' means:

- (a) a passport issued by the Commonwealth; or
- (b) a passport or a similar document issued for the purpose of international travel, that:
  - (i) contains a photograph and the signature of the person in whose name the document is issued; and
  - (ii) is issued by a foreign government, the United Nations or an agency of the United Nations.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Anti-Money Laundering and Counter-Terrorism Financing Rules for registrable details relating to the Register of Providers of Designated Remittance Services and the Remittance Sector Register**

27.1 For the purposes of section 5 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* the registrable details

(A) in relation to the Register of Providers of Designated Remittance Services (old Register), are:

- (1) any business name under which the person is operating;
- (2) a description of whether the person is operating as a sole trader, company, partnership, trust or through another legal structure;
- (3) the full street address at which the person provides registrable designated remittance services, including the full street address of each branch of the person;
- (4) if the person has an ACN or ARBN – that number;

- (5) if the person has an ABN – that number;
- (6) if the person holds an Australian financial services licence (AFSL) – the number of that licence;
- (7) the person's telephone number at its principal place of business;
- (8) the person's facsimile number at its principal place of business;
- (9) the person's email address at its principal place of business;
- (10) the full name, date of birth, residential address and residential telephone number of:
  - (a) if the person is a sole trader – that individual;
  - (b) if the person comprises a partnership – each partner;
  - (c) in any other case, except if the person is a company – each individual who has effective control of the business;
- (11) for the individual who is, or is to be, the primary contact for any dealings with AUSTRAC, the individual's:
  - (a) full name; and
  - (b) position or title; and
  - (c) telephone number; and
  - (d) facsimile number; and
  - (e) email address;
- (12) a description of business carried on by the person including:
  - (a) the main destination(s) where money or property is to be received or is likely to be received as a result of a transfer by the person under a designated remittance arrangement;
  - (b) the main destination(s) from which money or property is to be transferred or is likely to be transferred by the person under a designated remittance arrangement; and
  - (c) the nature of any other business carried on by the person at the address(es) referred to in paragraph 27.1(A)(3);
- (13) if the person provides a registrable designated remittance service through an agent:
  - (a) if the agent is an individual – the full name, date of birth, residential address, telephone number and facsimile number of the agent;
  - (b) if the agent is not an individual – the full name, business name of the agent, the ACN or ARBN of the agent, and the address, telephone number and facsimile number of the agent;

number and facsimile number of the agent's registered office or principal place of business;

- (14) the date on which the person commenced or is to commence offering registrable designated remittance services.

(B) in relation to the Remittance Sector Register, are:

*If the person is registered as a remittance network provider:*

- (1) The business name(s) under which the person is carrying on a business, or proposes to carry on a business, of providing a registrable designated remittance service;
- (2) a description of whether the person is operating as individual, company, partnership, trust or through another legal structure;
- (3) the full street address of the person's principal place of business at which the person provides or proposes to provide a designated service, not being a branch of the person;
- (4) if the person has an ACN or ARBN – that number;
- (5) if the person has an ABN – that number;
- (6) if the person holds an Australian financial services licence (AFSL) – the number of that licence;
- (7) if the person holds an Australian credit licence – the number of that licence;
- (8) the foreign equivalent of the ACN, ABN, ARBN, AFSL or Australian credit licence number, together with the country in which the number was issued;
- (9) if the person is registered or licensed in a foreign country to provide remittance services – details of the registration or licence;
- (10) the person's telephone number at its principal place of business;
- (11) the person's facsimile number at its principal place of business (if applicable);
- (12) the person's email address at its principal place of business (if applicable);
- (13) the full name and business address (not being a post box address), and, where applicable, any business registration number(s) of:
  - (a) if the person is an individual – that individual;
  - (b) if the person comprises a partnership – the full name and address (not being a post box address) of each partner of the partnership;
  - (c) if the person is a trust – the name of each trustee;
  - (d) if the person is a company – the beneficial owner of the company;



- (14) in respect of the authorised individual and each of its key personnel, those individuals':
- (a) full name;
  - (b) date of birth;
  - (c) position or title;
  - (d) business telephone number;
  - (e) business facsimile number (if applicable);
  - (f) business email address (if applicable); and
  - (g) full business address (not being a post box address);
- (15) a description of the business carried on or proposed to be carried on by the person;
- (16) the date on which the person commenced or is to commence offering registrable designated remittance services;
- (17) whether the person or any of its key personnel:
- (a) has been charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism, people smuggling, fraud, a serious offence, an offence under the AML/CTF Act, or an offence under the *Financial Transaction Reports Act 1988* (FTR Act);
  - (b) has been subject to a civil penalty order made under the AML/CTF Act;
  - (c) has been the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities, which were determined adversely to the person or any of its key personnel (including by the person or any of its key personnel consenting to an order or direction, or giving an undertaking, not to engage in unlawful or improper conduct) and which reflected adversely on the person's competence, diligence, judgement, honesty or integrity;

and if so, the details of each instance as the case may require for the person and each of its key personnel.

*Note: The above does not affect the operation of Part VIIC of the Crimes Act 1914, which means that certain convictions that a person has spent convictions are not required to be disclosed under these AML/CTF Rules.*

- (18) Details of whether the person is:
- (a) a subsidiary of another entity or entities; or
  - (b) controlled by another entity or entities; and
- if so

- (c) the full names, addresses, positions and titles of the directors of the other entity or entities; and
  - (d) the ACN, ABN, ARBN (or foreign equivalent) of the other entity or entities (as applicable);
- (19) the business contact details of the individual who completed the application for registration, comprising
- (a) full name;
  - (b) position or title;
  - (c) date of birth (optional);
  - (d) telephone number;
  - (e) facsimile number (if applicable);
  - (f) email address; and
  - (g) postal address.

*If the person is registered as a remittance affiliate of a registered remittance network provider*

- (20) The business name(s) under which the remittance affiliate is carrying on a business, or proposes to carry on a business, of providing a registrable designated remittance service;
- (21) a description of whether the remittance affiliate is operating as an individual, company, partnership, trust or through any other legal structure;
- (22) the full street address of the remittance affiliate's principal place of business at which the remittance affiliate provides or proposes to provide a designated remittance service, not being a branch of that person;
- (23) if the remittance affiliate has an ACN or ARBN – the number;
- (24) if the remittance affiliate has an ABN – that number;
- (25) if the remittance affiliate holds an Australian financial services licence (AFSL) – the number of that licence;
- (26) if the remittance affiliate holds an Australian credit licence – the number of that licence;
- (27) the foreign equivalent of the ACN, ABN, ARBN, AFSL or Australian credit licence number, together with the country in which the number was issued;
- (28) if the remittance affiliate is registered or licensed in a foreign country to provide remittance services – details of that registration or licence;
- (29) the remittance affiliate's telephone number at its principal place of business;
- (30) the remittance affiliate's facsimile number at its principal place of business (if applicable);
- (31) the remittance affiliate's email address at its principal place of business (if applicable);

- (32) the full name and business address (not being a post box address), and, where applicable, any business registration number(s) of:
- (a) if the remittance affiliate is an individual – the full name and address (not being a post box address) of the individual;
  - (b) if the remittance affiliate comprises a partnership – the full name and address (not being a post box address) of each partner of the partnership;
  - (c) if the remittance affiliate is a trust – the name and address (not being a post box address) of each trustee;
  - (d) if the remittance affiliate is a company – the full name and address (not being a post box address) of the beneficial owner(s) of the company;
- (33) in respect of the authorised individual and each of the key personnel, those individuals’:
- (a) full name;
  - (b) date of birth;
  - (c) position or title;
  - (d) business telephone number;
  - (e) business facsimile number (if applicable);
  - (f) business email address (if applicable); and
  - (g) full business address (not being a post box address);
- (34) a description of the business carried on or proposed to be carried on by the remittance affiliate;
- (35) the date on which the remittance affiliate commenced or is to commence offering registrable designated remittance services;
- (36) whether the remittance affiliate or any of its key personnel:
- (a) has been charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism, people smuggling, fraud, a serious criminal offence, an offence under the AML/CTF Act, or an offence under the *Financial Transaction Reports Act 1988* (FTR Act);
  - (b) has been subject to a civil penalty order made under the AML/CTF Act;
  - (c) has been the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities, which were determined to be adverse to the remittance affiliate or any of its personnel (including by the remittance affiliate or any of its key personnel consenting to an order or direction, or giving an undertaking, not to engage in unlawful or improper conduct) and which reflected adversely on the remittance affiliate’s competence

diligence, judgement, honesty or integrity;

and if so, the details of each instance as the case may be, for the remittance affiliate and each of its key personnel.

*Note: The above does not affect the operation of Part VIIC of the Crimes Act 1914, which means that certain convictions that a person has spent convictions are not required to be disclosed under these AML/CTF Rules.*

(37) Details of whether the remittance affiliate is:

(a) a subsidiary of another entity or entities; or

(b) controlled by another entity or entities; and

if so

(c) the full names, addresses, positions and titles of the directors of the other entity or entities; and

(d) the ACN, ABN, ARBN (or foreign equivalent) of the other entity or entities (as applicable);

(38) the business contact details of the individual who completed the remittance affiliate's application for registration, comprising:

(a) full name;

(b) position or title;

(c) date of birth (optional);

(d) telephone number;

(e) facsimile number (if applicable);

(f) email address; and

(g) postal address.

*If the person is registered as an independent remittance dealer or if the person is an independent remittance dealer who is also registered as a remittance affiliate*

(39) The business name(s) under which the person is carrying on a business, or proposes to carry on a business, of providing a registrable designated remittance service;

(40) a description of whether the person is operating as an individual, company, partnership, trust or through another legal structure;

(41) the full street address of the person's principal place of business at which the person provides or proposes to provide a designated service, not being a branch of the person;

(42) if the person has an ACN or ARBN - that number;

(43) if the person has an ABN - that number;

(44) if the person holds an Australian financial services licence (AFSL) -the number of that licence;

- (45) if the person holds an Australian credit licence – the number of that licence;
- (46) the foreign equivalent of the ACN, ABN, ARBN, AFSL or Australian credit licence number, together with the country in which the number was issued;
- (47) if the person is registered or licensed in a foreign country to provide remittance services – details of the registration or licence;
- (48) the person's telephone number at its principal place of business;
- (49) the person's facsimile number at its principal place of business (if applicable);
- (50) the person's email address at its principal place of business (if applicable);
- (51) the full name and business address (not being a post box address), and, where applicable, any business registration number(s) of:
  - (a) if the person is an individual – that individual;
  - (b) if the person comprises a partnership – the full name and address (not being a post box address) of each partner of the partnership;
  - (c) if the person is a trust – the name of each trustee;
  - (d) if the person is a company – the beneficial owner of the company;
- (52) in respect of the authorised individual and each of the key personnel, those individuals':
  - (a) full name;
  - (b) date of birth;
  - (c) position or title;
  - (d) business telephone number;
  - (e) business facsimile number (if applicable);
  - (f) business email address (if applicable); and
  - (g) full business address (not being a post box address);
- (53) a description of the business carried on or proposed to be carried on by the person;
- (54) the date on which the person commenced or is to commence offering registrable designated remittance services;
- (55) whether the person or any of its key personnel:
  - (a) has been charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism, people smuggling, fraud, a serious offence, an offence under the AML/CTF Act, or a

offence under the *Financial Transaction Reports Act 1988* (FTR Act);

- (b) has been subject to a civil penalty order made under the AML/CTF Act;
- (c) has been the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities, which were determined adversely to the person or any of its key personnel (including by the person or any of its key personnel consenting to an order or direction, or giving an undertaking, not to engage in unlawful or improper conduct) and which reflected adversely on the person's competence, diligence, judgement, honesty or integrity;

and if so, the details of each instance as the case may be for the person and each of its key personnel.

*Note: The above does not affect the operation of Part VIIC of the Crimes Act 1914, which means that certain convictions that a person has spent convictions are not required to be disclosed under these AML/CTF Rules.*

(56) Details of whether the person is:

- (a) a subsidiary of another entity or entities; or
  - (b) controlled by another entity or entities; and
- if so
- (c) the full names, addresses, positions and titles of the directors of the other entity or entities; and
  - (d) the ACN, ABN, ARBN (or foreign equivalent) of the other entity or entities (as applicable);

(57) the business contact details of the individual who completed the application for registration, comprising

- (a) full name;
- (b) position or title;
- (c) date of birth (optional);
- (d) telephone number;
- (e) facsimile number (if applicable);
- (f) email address; and
- (g) postal address.

*Note: Section 75A of the AML/CTF Act specifies that the following details must be entered on the Remittance Sector Register if the AUSTRAC CEO decides to register a person under subsection 75C(2): 'the name of the person', 'whether the person is registered as (i) a remittance network provider, (ii) an independent remittance dealer, or (iii) a remittance affiliate of a registered remittance network provider', 'if the person is registered as a remittance affiliate of a registered remittance network provider' 'the name of the registered remittance network provider' 'any*

the name of the registered remittance network provider, any conditions to which the registration of the person is subject', and 'the date on which the registration takes effect'.

27.2 In this Chapter:

- (1) 'authorised individual' means a natural person who
  - (a) a beneficial owner; or
  - (b) an officer as defined in section 9 of the *Corporations Act 2001* or;
  - (c) is an employee of the person registered on the Remittance Sector Register who has been authorised in writing by the registered person to act in this capacity;
- (2) 'beneficial owner' has the same meaning as in Chapter 2 of these AML/CTF Rules;
- (3) 'company' has the same meaning as in the *Corporations Act 2001*;
- (4) 'control' has the meaning given by section 50AA of the *Corporations Act 2001*;
- (5) 'destination' includes country and a city or town of a country;
- (6) 'enforcement action' includes any action of a corrective or punitive nature in respect of an alleged breach of law taken by a regulatory body of the Commonwealth or a State or Territory, or a government body;
- (7) 'entity' has the same meaning as in section 9 of the *Corporations Act 2001*;
- (8) 'fraud' means dishonestly obtaining a benefit by deception or other means;
- (9) 'key personnel' means:
  - (a) in the case of a company, corporation sole or body politic, is a natural person that is;
    - (i) a beneficial owner; or
    - (ii) an officer as defined in section 9 of the *Corporations Act 2001*, or an employee or agent of the body corporate with duties of such responsibility that his or her conduct may fairly be assumed to represent the body corporate's policy;
  - (b) in the case of an individual, trust or partnership, is a natural person that is an employee or agent of the individual, trust or partnership with duties of such responsibility that his or her conduct may fairly be assumed to represent the policy of the individual, trust or partnership;
- (10) 'old Register' means the Register of Providers of Designated Remittance Services within the meaning of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, as in force immediately before the

registration commencement day.

*Note: The registration commencement day was November 2011.*

- (11) 'people smuggling' means conduct that amounts to
- (a) an offence against Division 73 of the *Criminal Code*; or
  - (b) an offence against Subdivision A, Division 12, 2 of the *Migration Act 1958*; or
  - (c) an offence against a law of a foreign country or part of a foreign country that corresponds:
    - (i) to an offence referred to in paragraph (a) or (b); or
    - (ii) with the *Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime*;
- (12) 'person' has the same meaning as in the AML/CTF Act.
- (13) 'serious offence' means an offence which is:
- (a) an offence against a law of the Commonwealth or a law of a State or Territory, punishable on indictment by imprisonment for life or 2 or more years, that may be dealt with as an indictable offence (even if it may, in some circumstances, be dealt with as a summary offence) regardless of whether the offence proceeds summarily or on indictment; or
  - (b) an offence against a law of a foreign country constituted by conduct that, if it had occurred in Australia, would have constituted a serious offence.
- A 'serious offence' in relation to a person other than an individual means an offence which would have been a serious offence if the person had been an individual;
- (14) 'subsidiary' has the same meaning as in the *Corporations Act 2001*;
- (15) 'terrorism' means conduct that amounts to:
- (a) an offence against Division 101 or 102 of the *Criminal Code*; or
  - (b) an offence against a law of a State or Territory that corresponds to an offence referred to in paragraph (a); or
  - (c) an offence against a law of a foreign country or part of a foreign country that corresponds to an offence referred to in paragraph (a).

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be*



## **Applicable customer identification procedures in certain circumstances - assignment, conveyance, sale or transfer of businesses**

- 28.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 39(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
- 28.2 Subject to paragraphs 28.4 and 28.5, Division 4 of Part 2 of the AML/CTF Act does not apply to a designated service that is provided in the circumstances specified in paragraph 28.3.
- 28.3 The specified circumstances for the purposes of paragraph 28.2 are that:
- (1) either:
    - (a) reporting entity one has assigned, conveyed, sold or transferred the whole or a part of its business to reporting entity two, excluding a compulsory transfer of business which takes effect under Part 4 of the *Financial Sector (Business Transfer and Group Restructure) Act 1999* (FSA); or
    - (b) all or part of the assets and liabilities of reporting entity one have become the assets and liabilities of reporting entity two as a result of a transfer effect pursuant to a certificate of transfer issued by the Australian Prudential Regulation Authority (APRA) under section 18 of the FSA; and
  - (2) the designated service is provided to a transferring customer; and
  - (3) prior to the assignment, conveyance, sale or transfer, all or part of the assets and liabilities of reporting entity one becoming the assets and liabilities of reporting entity two, reporting entity two has reasonably determined:
    - (a) the ML/TF risk it faces in providing the designated service to the transferring customers as a group; and
    - (b) that it has in place appropriate risk-based systems and controls to identify, manage and mitigate the ML/TF risk it faces in providing the designated service to the transferring customers as a group; and
    - (c) based on the assessed ML/TF risk and its risk-based systems and controls, it is reasonable for it to either:
      - (i) rely upon the applicable customer identification procedure of reporting entity one as an appropriate means to identify and verify the identification of a transferring customer; or
      - (ii) treat a transferring customer who was a previous

- (ii) treat a transferring customer who was a pre-commencement customer of reporting entity two as if the customer was a pre-commencement customer of reporting entity two.

28.4 Reporting entity two must, within 14 days after any of the circumstances specified in paragraph 28.5 comes into existence, take one or more of the actions specified below:

- (1) carry out the applicable customer identification procedure, unless reporting entity two has previously carried out that procedure or a comparable procedure;
- (2) collect any KYC information in respect of the customer;
- (3) verify, from a reliable and independent source, KYC information that has been obtained in respect of the customer, as is appropriate to the ML/TF risk relevant to the provision of the designated service by reporting entity two;

for the purpose of enabling reporting entity two to be reasonably satisfied that the customer is the person that he or she claims to be.

28.5 For the purposes of paragraph 28.4 the following circumstances are specified:

- (1) a suspicious matter reporting obligation arises in relation to a transferring customer; or
- (2) reporting entity two reasonably suspects that reporting entity one did not carry out the applicable customer identification procedure when required; or
- (3) a significant increase has occurred in the level of ML/TF risk as assessed under the AML/CTF program of reporting entity two, in relation to the provision of a designated service by reporting entity two to a transferring customer.

28.6 In this Chapter:

- (1) 'reporting entity one' means the reporting entity that either:
  - (a) assigns, conveys, sells or transfers a whole or a part of the business; or
  - (b) is to transfer, or has transferred, all or part of its assets or liabilities pursuant to Part 3 of the FSA;
- (2) 'reporting entity two' means the reporting entity to which reporting entity one either:
  - (a) assigns, conveys, sells or transfers a whole or a part of the business, excluding compulsory transfers of business effected pursuant to Part 4 of the FSA; or
  - (b) is to transfer, or has transferred, all or part of its assets or liabilities pursuant to Part 3 of the FSA;
- (3) 'transferring customer' means a customer who is a customer of reporting entity two in relation to a designated service solely because of the transfer of all or part of the assets or liabilities of reporting entity one to reporting entity two or the assignment, conveyance, sale or transfer

entity two of the assignment, conveyance, sale or transfer of the whole or a part of the business from reporting entity.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

## **Record-keeping obligations under section 107**

29.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for paragraph 107(1)(b) of that Act.

29.2 For paragraph 107(1)(b) of the AML/CTF Act the following records are declared to be exempt:

- (1) customer-specific documents (such as account statements), correspondence and publicly-available statements, forms and documents which a reporting entity routinely provides to its customers, such as disclosure statements, financial or investment analysis or summary reports;
- (2) product or service information, which replicate information retained as a record by the reporting entity;
- (3) general correspondence with customers, such as, but not limited to, promotional materials and general correspondence relating to fees, service charges, interest rate changes, terms and conditions, technology changes and legislative changes which are not specific to a particular customer;
- (4) overdrawn notices and accompanying correspondence;
- (5) information provided to a customer of a reporting entity on the methods by which a designated service is to be delivered;
- (6) correspondence or similar documents provided by a reporting entity to a customer which relate to, or otherwise document, product or service enquiries or comments from customers, such as customer experience records or requests for information on a product;
- (7) records of interviews or conversations with customers such as recordings of phone conversations where instructions are received from the customer unless the information contained in such interviews or conversations relates to a reporting obligation under the AML/CTF Act;
- (8) a record of information created by the use of an optical surveillance device;

- (9) an electronic file created solely for the purpose of submitting electronic reports to AUSTRAC in a manner form approved by the AUSTRAC CEO for the purposes paragraph 244(2)(b) of the AML/CTF Act.

29.3 In this Chapter:

- (1) 'optical surveillance device' has the same meaning as the Surveillance Devices Act 2004.

*Reporting entities should note that exemptions declared by this Chapter only affect record-keeping obligations derived from the AML/CTF Act and do not affect reporting entities' record-keeping obligations under any other legislation.*

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

## Disclosure certificates

30.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for subparagraphs 91(1)(d)(ii), 91(2)(d)(ii) and 91(3)(d)(ii) of that Act, to specify requirements for paragraph 84(3)(b), 85(3)(b) and 86(1)(c) of that Act. To avoid doubt, disclosure certificates may be used for the purposes of subsection 36(1) of the AML/CTF Act and to the extent necessary to enable that use, these Rules are also made for paragraph 36(1)(b) of the AML/CTF Act.

30.2 Part B of a standard, joint or special anti-money laundering counter-terrorism financing program, may provide that a reporting entity may request that a customer of the type specified in paragraphs 30.6 to 30.12 provide a disclosure certificate, only in the following circumstances:

- (1) the reporting entity has determined that the information cannot otherwise be reasonably obtained or verified;
- (2) the information to be provided or verified is reasonably required under the AML/CTF program applying to the reporting entity;
- (3) the reporting entity has applied the relevant procedures and requirements in its AML/CTF program, but has been unable to obtain or verify the information; and
- (4) the information is one or more of the items of information specified in paragraphs 30.6 to 30.12.

30.3 Reporting entities may accept disclosure certificates that are certified by an appropriate officer of the customer for the

purposes of paragraphs 30.6 to 30.12.

30.4 An 'appropriate officer' in regard to the customer is determined by the reporting entity in accordance with its risk-based system and controls.

30.5 A reporting entity must not rely on a disclosure certificate if it knows or has reason to believe that the information contained in the certificate is incorrect or unreliable.

#### *Domestic Companies*

30.6 For paragraph 4.3.11, a disclosure certificate for a domestic company must contain:

- (1) the full name and full residential address of each beneficial owner of the company;
- (2) the full name of the appropriate officer;
- (3) a certification by the appropriate officer that the information contained in the disclosure certificate is true, accurate and complete; to the best of their knowledge and belief; and
- (4) the date of certification by the appropriate officer.

#### *Foreign companies*

30.7 For paragraphs 4.3.12 and 4.3.13, a disclosure certificate for a foreign company registered in Australia must contain:

- (1) the full name of the company;
- (2) information about whether the company is registered with the relevant foreign registration body and if so, whether it is registered as a private or public company or some other type of company;
- (3) the full name and full residential address of each beneficial owner;
- (4) the full name of the appropriate officer;
- (5) certification by the appropriate officer that the information contained in the disclosure certificate is true, accurate, complete, to the best of their knowledge and belief; and
- (6) the date of certification by the appropriate officer.

30.8 For a foreign company not registered in Australia a disclosure certificate must contain:

- (1) the full name of the company;
- (2) information about whether the company is registered with the relevant foreign registration body and if so:
  - (a) any identification number issued to the company by the relevant foreign registration body upon the company's formation, incorporation or registration;
  - (b) whether it is registered as a private or public company or some other type of company by the relevant foreign registration body;
  - (c) the jurisdiction of incorporation of the foreign company;

company as well as the jurisdiction of the primary operations of the foreign company and the location of the foreign stock or equivalent exchange (if applicable); and

- (d) contain the full name and full residential address of each beneficial owner;
- (3) the full name of the appropriate officer;
- (4) certification by the appropriate officer that the information contained in the disclosure certificate is true, accurate, complete, to the best of their knowledge and belief; and
- (5) the date of certification by the appropriate officer.

#### *Trusts*

30.9 For paragraph 4.4.16, a disclosure certificate for a trust must:

- (1) verify KYC information about a trust, where the verification is for the purposes of a procedure of a kind described in paragraph 4.4.6 or 4.4.11, if the KYC information to be verified is not otherwise reasonably available from the sources described in paragraph 4.4.15;
- (2) contain the full name and full residential address of each beneficial owner;
- (3) contain the full name of the appropriate officer;
- (4) contain certification by the appropriate officer that the information contained in the disclosure certificate is true, accurate and complete; to the best of their knowledge and belief; and
- (5) contain the date of certification by the appropriate officer.

#### *Partnerships*

30.10 For paragraph 4.5.8, a disclosure certificate for a partnership must:

- (1) verify KYC information about a partnership, where the verification is for the purposes of a procedure of a kind described in paragraph 4.5.6, if the KYC information to be verified is not otherwise reasonably available from the sources described in paragraph 4.5.7;
- (2) contain the full name and full residential address of each beneficial owner;
- (3) contain the full name of the appropriate officer;
- (4) contain certification by the appropriate officer that the information contained in the disclosure certificate is true, accurate, and complete, to the best of their knowledge and belief; and
- (5) contain the date of certification by the appropriate officer.

#### *Associations*

30.11 For paragraph 4.6.8, a disclosure certificate for an incorporated or unincorporated association must:

- (1) verify KYC information about an association, where the verification is for the purposes of a procedure of a kind described in paragraph 4.6.6, if the KYC information to be verified is not otherwise reasonably available from the sources described in paragraph 4.6.7;
- (2) contain the full name and full residential address of each beneficial owner;
- (3) contain the full name of the appropriate officer;
- (4) contain certification by the appropriate officer that the information contained in the disclosure certificate is true, accurate, and complete; to the best of their knowledge and belief; and
- (5) contain the date of certification by the appropriate officer.

*Registered co-operatives*

30.12 For paragraph 4.7.8, a disclosure certificate for a registered co-operative must:

- (1) verify KYC information about a registered co-operative where the verification is for the purposes of a procedure of a kind described in paragraph 4.7.6, if the KYC information to be verified is not otherwise reasonably available from the sources described in paragraph 4.7.7;
- (2) contain the full name and full residential address of each beneficial owner;
- (3) contain the full name of the appropriate officer;
- (4) contain certification by the appropriate officer that the information contained in the disclosure certificate is true, accurate, and complete, to the best of their knowledge and belief; and
- (5) contain the date of certification by the appropriate officer.

*Note: Reporting entities seeking to rely on a disclosure certificate to verify information should be aware that criminal or civil penalties may apply under Part 12 of the AML/CTF Act for providing false or misleading information, producing false or misleading documents, and for receiving a designated service using a false customer name.*

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

- 31.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 247(3) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
- 31.2 Subject to paragraph 31.3, the AML/CTF Act does not apply to the provision of a designated service of the kind described in item 47 of table 1 in subsection 6(2) of the AML/CTF Act.
- 31.3 The exemption in paragraph 31.2 applies only if:
- (1) the designated service is provided in the course of carrying on a business of providing traveller accommodation; and
  - (2) the customer of the designated service is a registered guest at the place of the traveller accommodation; and
  - (3) the currency exchanged must not exceed:
    - (a) \$500 (Australian or the foreign equivalent) per registered guest per day; and
    - (b) \$1,000 (Australian or the foreign equivalent) per room account per day; and
  - (4) any charge relating to the designated service that is imposed on the registered guest, is levied to the room account of the registered guest; and
  - (5) the provider of the designated service does not provide any other type of designated services described in subsections 6(2)-(5) of the AML/CTF Act, excepting the provision of the designated service specified in item 47 of table 1 in subsection 6(2) of the AML/CTF Act provided in accordance with the conditions of the Chapter 32 AML Rules relating to safe deposit boxes or similar facilities
- 31.4 In this Chapter:
- (1) 'registered guest' means an individual who engages sleeping accommodation at the traveller accommodation for a period of which includes the time at which the designated service is provided;
  - (2) 'traveller accommodation' means:
    - (a) backpacker; or
    - (b) bed and breakfast; or
    - (c) hotel; or
    - (d) motel; or
    - (e) resort; or
    - (f) serviced apartment.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with*



## **Exemption of certain types of transactions relating to safe deposit boxes or similar facilities**

32.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 247(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

32.2 Subject to paragraph 32.3, the AML/CTF Act does not apply to a designated service of the kind described in item 47 of table 1 of subsection 6(2) of the AML/CTF Act.

32.3 The exemption in paragraph 32.2 applies only if:

- (1) the designated service is provided in the course of carrying on a business of providing traveller accommodation; and
- (2) the customer of the designated service is a registered guest at the place of the traveller accommodation; and
- (3) the designated service is provided through the provision of a safe deposit box or similar facility located either:
  - (a) in the room of the registered guest and controlled by the registered guest; or
  - (b) outside the room of the registered guest but within the place of the traveller accommodation and controlled by the provider of the traveller accommodation.

32.4 In this Chapter:

- (1) 'registered guest' means an individual who engages in sleeping accommodation at the traveller accommodation for a period of which includes, or is within 1 day of, the time in which the designated service is provided;
- (2) 'traveller accommodation' means:
  - (a) backpacker; or
  - (b) bed and breakfast; or
  - (c) hotel; or
  - (d) motel; or
  - (e) resort; or
  - (f) serviced apartment.

the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99

## **Applicable customer identification procedure for purchases and sale of bullion valued at less than \$5,000**

33.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for subsection 39(4) of that Act.

33.2 Subject to paragraph 33.3 below, Division 4 of Part 2 of the AML/CTF Act does not apply to a designated service that:

- (1) is of a kind described in items 1 or 2 of table 2 in subsection 6(3) of the AML/CTF Act; and
- (2) the retail value of the bullion is less than \$5,000 (Australian or the foreign equivalent).

33.3 The exemption in paragraph 33.2 does not apply where a reporting entity determines in accordance with its appropriate risk-based systems and controls that:

- (1) further KYC information should be collected about a customer for ongoing customer due diligence purposes or
- (2) KYC information should be updated or verified about a customer for ongoing customer due diligence purposes.

33.4 In this Chapter:

- (1) 'KYC information' has the meaning given by Chapter 1 of the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

## **Affixing of notices about cross-border movement reporting obligations**

34.1 These Rules are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for paragraphs 61(1)(b) and 61(2)(b) of that Act.

34.2 For section 61(1)(b), a written notice must be in the following form:

- (1) a self-standing sign; or
- (2) a digital/electronic sign; or
- (3) a sign in any other material form.

34.3 For section 61(1)(b), a written notice must contain the following content, with or without the inclusion of any other words:

Australian Government

Australian Transaction Reports and Analysis Centre

Are you carrying funds into or out of Australia?

By law you must now:

If asked by a Customs or police officer, report travellers' cheques, money orders or any other bearer negotiable instrument of any amount

Always report AUD\$10,000 cash or more (or foreign currency equivalent)

Please note there is no limit to the funds you can carry into and out of Australia

34.4 For the purposes of section 61(2)(b), a written notice may be affixed at:

- (1) any port, airport, wharf, or boarding station that is appointed (and, if applicable, the limits of which are fixed under section 15 of the *Customs Act 1901*; and
- (2) a place to which section 234AA of the *Customs Act 1901* applies that is not a place, or a part of a place, referred to in paragraph 34.4(1).

34.5 In this Chapter:

- (1) 'self-standing sign' includes portable or temporary sign (however described);
- (2) 'digital/electronic sign' includes a monitor or screen (however described) on which electronic images and/or words are capable of being displayed;
- (3) the definition of 'writing' in section 2B of the *Acts Interpretation Act 1901* applies to the form of the written notice.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995*

## **Exemption from applicable customer identification procedures for correspondent banking relationships**

35.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 39(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

35.2 Division 4 of Part 2 of the AML/CTF Act does not apply to a reporting entity which is a financial institution providing a designated service that:

(1) is either:

(a) of a kind described in item 2 of table 1 in subsection 6(2) of the AML/CTF Act; or

(b) of a kind described in item 3 of table 1 in subsection 6(2) of the AML/CTF Act; and

(2) relates to a correspondent banking relationship; and

(3) occurs in one of the circumstances set out in section 1 of the AML/CTF Act; and

(4) relates to signatories to the account who are employees of the other financial institution.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Exemption of certain designated services within a corporate structure**

36.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 and subsection 247(3) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

36.2 Subject to paragraph 36.6, the AML/CTF Act does not apply to a designated service that is:

(1) of a kind described in any item of table 1 in subsection 6(2) of the AML/CTF Act; and

(2) provided to a customer that is related to the entity providing the service as described in paragraph 36.4.

36.3 Subject to paragraph 36.6, the AML/CTF Act does not apply to a designated service that is:

(1) of a kind described in item 48 or item 49 of table 1 in subsection 6(2) of the AML/CTF Act;

subsection b(2) of the AML/CTF Act;

(2) provided to a lender; and

(3) provided where the borrower is related to the entity providing the service as described in paragraph 36.4.

36.4 For the purposes of this Chapter a customer and an entity providing a designated service are related if, and only if:

(1) the customer and the entity providing the service are related bodies corporate within the meaning of the *Corporations Act 2001*;

(2) the customer is controlled by the entity providing the service;

(3) the entity providing the service is controlled by the customer;

(4) a third entity controls both the customer and the entity providing the service; or

(5) the customer and the entity providing the service is a partnership.

36.5 Subparagraph 36.4(5) does not apply if the partnership is a limited partnership within the meaning of paragraph (b) of the definition of 'limited partnership' for the purpose of the *Income Tax Assessment Act 1997*.

36.6 The exemptions in paragraph 36.2 and paragraph 36.3 only apply if:

(1) the customer is resident in Australia; or

(2) if the customer is not resident in Australia, prior to providing the designated service, the entity providing the service has concluded on reasonable grounds that the money-laundering and terrorism financing risk of providing the service is the same as, or lower than, these risks would be in providing the same service to a substantially similar customer in Australia.

36.7 In this Chapter:

(1) 'control' has the same meaning as in the *Corporations Act 2001*.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Exemption from threshold transaction reporting for certain designated services**

37.1 These Anti-Money Laundering and Counter-Terrorism Financial Rules (Rules) are made under section 229 for subsection 44(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

37.2 Section 43 of the AML/CTF Act does not apply to a designated service that involves a threshold transaction in circumstances where:

- (1) the designated service is provided by an ADI to a customer which is an ADI; or
- (2) the designated service is provided by the Reserve Bank of Australia to a customer which is the holder of an Exchange Settlement Account; or
- (3) the designated service is provided by the holder of an Exchange Settlement Account to a customer which is the holder of an Exchange Settlement Account.

37.3 In this Chapter:

- (1) 'Exchange Settlement Account' means an account held by the Reserve Bank of Australia which is used for the final settlement of obligations between Exchange Settlement Account holders.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Exemption from applicable customer identification procedures for the sale of shares for charitable purposes**

38.1 These Anti-Money Laundering and Counter-Terrorism Financial Rules (Rules) are made under section 229 for subsection 39(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

38.2 Division 4 of Part 2 of the AML/CTF Act does not apply to a designated service that:

- (1) is a disposal of the kind described in item 33 of table 1 of the AML/CTF Regulations; and subsection 6(2) of the AML/CTF Act; and
- (2) the disposal occurs on a prescribed financial market; and
- (3) the value of the security does not exceed \$10,000; and
- (4) the agent gives the proceeds of the disposal directly to an ancillary fund that provides an undertaking to:
  - (a) distribute, by cheque and/or electronic funds transfer, the proceeds of the disposal of the security to a deductible gift recipient; and
  - (b) list on its public website within 14 business days of the disposal, for a period of 12 months, the details of the distribution of the proceeds of the disposal of the security to the deductible gift recipient.

38.3 The ancillary fund must be a registered entity.

38.4 In this Chapter:

- (1) 'ancillary fund' has the meaning given by the *Income Tax Assessment Act 1997*;
- (2) 'deductible gift recipient' has the meaning given by the *Income Tax Assessment Act 1997*;
- (3) 'prescribed financial market' has the meaning given by section 9 of the *Corporations Act 2001*;
- (4) 'registered entity' has the meaning given by section 3 of the *Australian Charities and Not-for-profits Commission Act 2012*.
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*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

### **Exemption from applicable customer identification procedures - premium funding loans for a general insurance policy**

39.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 39(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

39.2 Section 32 of the AML/CTF Act does not apply to a designated

service that:

- (1) is of a kind described in item 6 of table 1 in subsection 39.3.1 of the AML/CTF Act and is a premium funding agreement;
- (2) is of a kind described in item 7 of table 1 in subsection 39.3.1 of the AML/CTF Act and is in relation to a loan that is a premium funding agreement.

39.3 In this Chapter:

- (1) 'premium funding agreement' means an agreement under which—
  - (a) a person agrees to make a loan to the customer under which—
    - (i) against an amount payable for premiums under a policy of insurance that is not a life policy or sinking fund policy; or
    - (ii) against an amount payable in connection with such a policy of general insurance (including, but not limited to, fees for advice or services provided in connection with such a policy and taxes payable in connection with such a policy) and
  - (b) the person obtains from the customer, as security for payment of the loan, one or more of the following:
    - (i) an assignment of the customer's interest in the policy;
    - (ii) an assignment of all amounts payable under the policy;
    - (iii) a power of attorney providing at least a right to cancel the policy.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Definition of 'exempt legal practitioner service'**

40.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the definition of 'exempt legal practitioner service' in



section 5 of that Act.

40.2 A service is taken to be an 'exempt legal practitioner service' if:

- (1) it is provided in the ordinary course of carrying on a legal practice and is a custodial or depository service other than a service that under section 766E(1) of the *Corporations Act 2001* constitutes providing a custodial or depository service; or
- (2) it is provided in the ordinary course of carrying on a legal practice and is a safe deposit box or similar facility other than in relation to physical currency.

40.3 In this Chapter:

'law practice' means a business carried out by either of the following:

- (1) a legal practitioner (however described) that supplies professional legal services; or
- (2) a partnership or company that uses legal practitioners (however described) to supply professional legal services.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Exemption from applicable customer identification procedures - cashing out of low value superannuation funds and for the Departing Australia Superannuation Payment**

### **Part 41.1 Introduction**

41.1.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 39(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

### **Part 41.2 Superannuation fund low balance accounts**

41.2.1 Division 4 of Part 2 of the AML/CTF Act does not apply to the provision of a designated service that is of a kind described in item 43(a) of table 1 in subsection 6(2) of the AML/CTF Act in the circumstances specified in paragraph 41.2.2.

41.2.2 For paragraph 41.2.1, the circumstances relevant to the exemption are:

- (1) on the date the member applies for the interest in the superannuation fund to be cashed out, the value of the

interest is not greater than \$1,000; and

- (2) no additional contributions are accepted from the member in relation to the interest; and
- (3) the whole of the interest of the member in the superannuation fund is cashed out; and
- (4) the account in which the interest of the member in the superannuation fund was held, is closed as soon as practicable after the cashing out of that interest; and
- (5) paragraphs 41.3.1 and 41.3.2 do not apply.

### **Part 41.3 Departing Australia Superannuation Payment**

41.3.1 Division 4 of Part 2 of the AML/CTF Act does not apply to the provision of a designated service that is of a kind described in item 43 or item 45 of table 1 in subsection 6(2) of the AML/CTF Act in the circumstances specified in paragraph 41.3.2.

41.3.2 For paragraph 41.3.1, the circumstances relevant to the exemption are:

- (1) the application of the member relates to the cashing out of an interest held by the member in:
  - (a) a superannuation fund; or
  - (b) an approved deposit fund (ADF); or
  - (c) a retirement savings account (RSA); and
- (2) the application is made online using the Departing Australia Superannuation Payment internet-based application system administered by the Australian Taxation Office; and
- (3) on the date the member applies for the interest in the superannuation fund, ADF or RSA to be cashed out, the value of the interest is not greater than \$5,000; and
- (4) no additional contributions are accepted from the member in relation to the member's interest in the superannuation fund, ADF or RSA; and
- (5) the whole of the interest of the member in the superannuation fund, ADF or RSA is cashed out; and
- (6) the account in which the interest of the member was held is closed as soon as practicable after the cashing out of the interest.

41.4 In this Chapter:

- (1) 'member' is the person to whom a designated service provided in item 43 or item 45 of table 1 in subsection 6(2) of the AML/CTF Act;
- (2) 'Departing Australia Superannuation Payment' has the same meaning as in section 301-170 of the Income Tax Assessment Act 1997.

*undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995*

## **Commodity warehousing of grain**

42.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for subsection 247(3) of that Act.

42.2 The AML/CTF Act does not apply to a designated service that

- (1) is of a kind described in item 6 of table 1 in subsection 247(3) of the AML/CTF Act; and
  - (a) is provided to a customer who is a grain grower and delivers grain into a grain pool; and
  - (b) the maximum loan amount is determined by the value of the grain at the time the customer delivers it into the grain pool; and
  - (c) the loan amount does not exceed the value of the grain at the time the customer delivers it into the pool; and
  - (d) loan repayments made by the customer are met by the grain pool payments made from the grain pool in which the grain has been delivered; or
- (2) is of a kind described in item 7 of table 1 in subsection 247(3) of the AML/CTF Act; and
  - (a) the transactions are conducted by the customer in relation to a loan that is covered by sub-paragraph 42.2(1).

42.3 In this Chapter:

- (1) 'grain' means grains, oil seeds and pulses of all kinds, qualities and varieties including wheat, barley, oats, sorghum, maize and rice;
- (2) 'grain pool' means a grouping of grain into a pool based on classification for the purposes of sale. After all of the grain in a pool from a particular harvest has been sold and all distributions have been paid, that pool ceases to exist.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995*

## Friendly Society closed funds

- 43.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 247(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
- 43.2 Subject to paragraph 43.3, the AML/CTF Act does not apply to a designated service that is of a kind described in:
- (1) item 37 of table 1 in subsection 6(2); or
  - (2) item 38 of table 1 in subsection 6(2); or
  - (3) item 39 of table 1 in subsection 6(2).
- 43.3 The exemption in paragraph 43.2 applies if:
- (1) the person providing the designated service is a friendly society; and
  - (2) the designated service is provided in relation to an approved benefit fund and the approved benefit fund rules state that the approved benefit fund:
    - (a) is closed to new members; and
    - (b) new policies cannot be written to the approved benefit fund.
- 43.4 In this Chapter:
- (1) 'approved benefit fund' has the meaning given by section 16B of the *Life Insurance Act 1995* (Cth);
  - (2) 'approved benefit fund rules' has the meaning given by section 16B of the *Life Insurance Act 1995* (Cth);
  - (3) 'friendly society' has the meaning given by section 16 of the *Life Insurance Act 1995* (Cth).

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## Debt Collection

- 45.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 247(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
- 45.2 For subsection 247(4), each class of provision of the AML/CTF Act contained in the following table is specified as not applying to a designated service provided in the circumstances as set out in paragraph 45.3 below:

<b>Class of Provision</b>	<b>Application</b>
Part 2, Division 2	Whole division
Part 2, Division 3	Whole division
Part 2, Division 4	Whole division
Part 2, Division 5	Whole division
Part 2, Division 6	Whole division
Part 2, Division 7	Sections 37, 38
Part 3, Division 3	Section 43 only
Part 3, Division 4	Section 45 only
Part 3, Division 5	Whole division
Part 3, Division 6	Section 50 only
Part 5	Whole Part
Part 6	Whole Part
Part 7	Whole Part
Part 10	Sections 104, 105, 109, 110, 111, 112, 114, 115, 116, 117, 119 only

45.3 The exemption in paragraph 45.2 only applies when a person in the capacity of a debt collector, provides any of the following designated services as described in table 1 of subsection 6(2) of the AML/CTF Act:

- (a) item 6;
- (b) item 7;
- (c) item 8;
- (d) item 31;
- (e) item 32.

45.4 In this Chapter:

- (1) 'debt' means an amount of money owed, including an alleged debt, where:
  - (a) the customer is in default under the terms and conditions of the account; or
  - (b) the customer is in default under the terms and conditions of the account and the provider of money (account provider) has declined the provision of further credit to the customer under the account;
  - (c) the account provider has terminated, cancelled, written off or charged off debt, by reason of the customer's default or continuing default in repayment;

the money;

- (2) 'alleged debt' means a debt where the debt collector has reasonable grounds for believing that the debt remains payable and owing by the debtor;
- (3) 'debt collector' means a person who collects debt in the course of carrying on a business of collecting debt.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Special circumstances for the applicable customer identification procedure**

46.1 These Anti-Money Laundering and Counter-Terrorism Financial Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act), for paragraphs 33(a) and 33(b) and subparagraph 34(1)(a) of that Act.

46.2 Under paragraph 33(a) and paragraph 33(b) of the AML/CTF Act, the services specified and relevant conditions are, in the capacity of an agent of a person, acquiring or disposing of a security or derivative or a foreign exchange contract by a reporting entity on behalf of another person (customer) under item 33 of table 1 of subsection 6(2) of the AML/CTF Act where the transaction occurs on a prescribed financial market under the following conditions:

- (1) the reporting entity does not accept physical currency to fund the designated service; and
- (2) the reporting entity does not permit the customer to transfer, or otherwise part with, proceeds from a disposal of a security or derivative or a foreign exchange contract;
- (3) the reporting entity does not re-sell, transfer, or otherwise part with (including to another reporting entity for the purpose of providing the item 33 designated service to the customer), a security or derivative or a foreign exchange contract on behalf of the customer which has been acquired on behalf of the customer; and
- (4) the reporting entity does not allow the customer to be credited with or obtain a refund of the purchase price; and
- (5) the designated service does not involve the acquisition of an interest in a managed investment scheme to which section 1019B of the *Corporations Act 2001* applies; and
- (6) the reporting entity cannot reasonably undertake the applicable customer identification procedure before the commencement of the provision of the designated service; and

- (7) the transaction must be performed rapidly due to financial market conditions relevant to the transaction; and
- (8) the reporting entity must put in place appropriate risk-based systems and controls to determine whether and in what circumstances to provide the designated service to a customer before the applicable customer identification procedure is carried out, including in relation to the number of types and/or amount of transactions.

46.3 For the purposes of paragraph 46.2 of these Rules and subparagraph 34(1)(d)(i) of the AML/CTF Act, the period is the earlier of the following:

- (1) the day on which the reporting entity carries out the applicable customer identification procedure; or
- (2) the end of the period of 5 business days after the day which the reporting entity commenced to provide the designated service to the customer.

46.4 In this Chapter:

- (1) 'derivative' has the meaning given by section 5 of the AML/CTF Act;
- (2) 'security' has the meaning given by section 5 of the AML/CTF Act;
- (3) 'prescribed financial market' has the meaning given by section 9 of the *Corporations Act 2001*.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Risk-only life policy interests in a superannuation fund**

47.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 247(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

47.2 Subject to paragraph 47.3, the AML/CTF Act does not apply to a designated service that:

- (1) is of a kind described in item 42(a) of table 1 in subsection 6(2) of the AML/CTF Act; or
- (2) is of a kind described in item 43(a) of table 1 in subsection 6(2) of the AML/CTF Act.

47.3 The exemption in paragraph 47.2 applies only if:

- (1) the provision of the designated service relates to an actual or potential interest in, or entitlement under, a Risk-only life policy of a member of a superannuation fund ("Risk-only life policy interest") (regardless of whether the member has other interests, benefits, entitlements, balances or accounts in the superannuation fund) where the Risk-only life policy
  - (a) has been acquired by the trustee of the superannuation fund from a life insurer on behalf of the member of the superannuation fund; and
  - (b) is held by the trustee of the superannuation fund as the policy holder; and
- (2) the Risk-only life policy interest of the member referred to in subparagraph 47.3(1) does not include an investment component or an accumulated balance or account; and
- (3) in respect to a designated service which falls within subparagraph 47.2(2) of these Rules, on the occurrence of an event specified in the Risk-only life policy, the trustee of the superannuation fund cashes out the whole or part of the Risk-only life policy interest referred to in subparagraph 47.3(1) in relation to that occurrence to the member of the superannuation fund (regardless of whether or not the trustee of the superannuation fund exercises its discretion to cash out other interests, benefits, entitlements, balances or accounts the member may have in the superannuation fund).

#### 47.4 In this Chapter:

- (1) 'member' has the same meaning as the customer of the designated service in items 42 or 43 (as applicable) of table 1 in subsection 6(2) of the AML/CTF Act;
- (2) 'Risk-only life policy' is a life policy which falls outside the definition of 'life policy' in section 5 of the AML/CTF Act and, in particular, is a life policy in respect of which:
  - (a) a single lump sum amount is, or instalment amounts are, payable to the trustee of the superannuation fund as policy holder, on the occurrence of an event specified in the policy relating to the death or disability of the member of the superannuation fund; and
  - (b) there is no prescribed minimum surrender value (other than that which may be provided for in the policy documentation and promotional material) on the investment component.

For the purposes of this definition, the question of whether a life policy has a prescribed minimum surrender value is to be determined in accordance with the prudential standards made under section 230A of the *Life Insurance Act 1995* in force from time to time.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be*



## **Exemption of salary packaging administration services from the AML/CTF Act**

48.1 These Anti-Money Laundering and Counter-Terrorism Financial Rules (Rules) are made under section 229 for subsection 247(3) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

48.2 Subject to paragraph 48.3, the AML/CTF Act does not apply to a designated service that:

- (1) is of a kind described in items 6, 7, 31, 32 and 48 of table 1 in subsection 6(2) of the AML/CTF Act.

48.3 The exemption in paragraph 48.2 only applies if the reporting entity:

- (1) is carrying on a business of providing administrative services relevant to salary packaging for an employer client and
- (2) does not undertake transactions which involve the receipt or payment of physical currency in regard to the designated services described in items 31 and 32 of table 1 in subsection 6(2) of the AML/CTF Act.

48.4 In this Chapter:

- (1) 'salary packaging' refers to an arrangement between an employer and an employee, whereby the employee agrees to forego part of their future entitlement to salary or wages in return for the employer providing them with benefits of a similar cost.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

## **International Uniform Give-Up Agreements**

49.1 These Anti-Money Laundering and Counter-Terrorism Financial Rules (Rules) are made under section 229 for subsection 39(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

49.2 Division 4 of Part 2 of the AML/CTF Act does not apply to a designated service that:

- (1) is of a kind described in item 33 of table 1 in subsection

6(2) of the AML/CTF Act; and

- (2) is provided by the reporting entity to a customer in the circumstances specified in paragraph 49.3.

49.3 The specified circumstances for the purposes of paragraph 49.2 are that the reporting entity:

- (1) provides the designated service to the customer pursuant to the terms and conditions of an International Uniform Give-Up Agreement;
- (2) is admitted as a Participant under the Operating Rule of a Licensed Market;
- (3) does not receive, hold or transfer money or property of the customer (other than applicable fees to the reporting entity) in connection with the provision of the designated service; and
- (4) the person to whom the reporting entity refers a transaction or transactions for clearing under the International Uniform Give-Up Agreement is:
  - (a) admitted as a Participant under the Operating Rule of a Licensed CS facility; or
  - (b) regulated by anti-money laundering and counter-terrorism financing laws in, or comparable to, those in Australia.

49.4 In this Chapter:

- (1) 'Participant' has the same meaning as in section 761A of the *Corporations Act 2001*;
- (2) 'Licensed Market' has the same meaning as in section 761A of the *Corporations Act 2001*;
- (3) 'Licensed CS facility' has the same meaning as in section 761A of the *Corporations Act 2001*;
- (4) 'International Uniform Give-Up Agreement' means a contract based on the terms and conditions in the template agreement developed by the US Futures Industry Association (FIA), the Futures and Options Association (FOA) and the London International Financial Futures and Options Exchange (LIFFE) pursuant to which a person (the customer) instructs the reporting entity to execute an order or orders for the settlement or clearance of which is or are conducted by another entity to whom the reporting entity 'give up' or otherwise refers the order or orders.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Exemption from applicable customer identification procedure in certain circumstances**

50.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 39(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

*Exemption from customer identification provisions for a member of designated business group where another member of the group treats the same customers as pre-commencement customers*

50.2 Subject to paragraphs 50.4 and 50.5, Division 4 of Part 2 of the AML/CTF Act does not apply to a designated service that is provided in the circumstances specified in paragraph 50.3.

50.3 The specified circumstances for the purposes of paragraph 50.2 are that:

- (1) reporting entity one has assigned, conveyed, sold or transferred the whole or a part of its business to reporting entity two;
- (2) reporting entity three has commenced to provide a designated service to the customers of reporting entity two;
- (3) reporting entity three is a member of the same designated business group to which reporting entity two belongs; and
- (4) based on the assessed ML/TF risk and its risk-based systems and controls, it is reasonable for reporting entity three to treat a transferring customer who is treated as a pre-commencement customer of reporting entity two under Chapter 28 as if that customer is a pre-commencement customer of reporting entity three.

50.4 Reporting entity three must, within 14 days after any of the circumstances specified in paragraph 50.3 come into existence, take one or more of the actions specified below:

- (1) carry out the applicable customer identification procedure; or
- (2) based on the assessed ML/TF risk and its risk-based systems and controls, assess whether it is reasonable to rely upon any of the following as an appropriate means to identify and verify the identification of the customer if previously undertaken by reporting entity two:
  - (a) a prescribed verification procedure;
  - (b) an identification reference; or
  - (c) a procedure approved by the AUSTRAC CEO; and
  - (d) any relevant identification obtained by reporting entity three in regard to subparagraph 50.4(2)(a)-(c) (if applicable); or
- (3) collect any KYC information in respect of the customer;
- (4) verify, from a reliable and independent source, KYC

- (1) verify, from a reliable and independent source, RUC information that has been obtained in respect of the customer;

for the purpose of enabling reporting entity three to be reasonably satisfied that the customer is the person that he or she claims to be.

50.5 For the purposes of paragraph 50.4, the following circumstances are specified:

- (1) a suspicious matter reporting obligation arises in relation to the customer to which reporting entity three has commenced to provide a designated service; or
- (2) a significant increase has occurred in the level of ML/TF risk as assessed under the AML/CTF program of the designated business group to which reporting entity three belongs, in relation to the provision of a designated service by reporting entity three to a customer of reporting entity two or by the provision of a designated service by the second reporting entity to a customer of the first reporting entity.

*Exemption from customer identification provisions for a member of designated business group where the same customers are pre-commencement customers of another member of the group*

50.6 Subject to paragraphs 50.8 and 50.9, Division 4 of Part 2 of the AML/CTF Act does not apply to a designated service that is provided in the circumstances specified in paragraph 50.7.

50.7 The specified circumstances for the purposes of paragraph 50.6 are that:

- (1) the second reporting entity has commenced to provide a designated service to a customer of the first reporting entity and the customer is a pre-commencement customer of the first reporting entity within the terms of section 28;
- (2) the second reporting entity is a member of the same designated business group to which the first reporting entity belongs; and
- (3) based on the assessed ML/TF risk and its risk-based systems and controls, it is reasonable for the second reporting entity to treat a customer who is a pre-commencement customer of the first reporting entity as if that customer is a pre-commencement customer of the second reporting entity.

50.8 The second reporting entity must, within 14 days after any of the circumstances specified in paragraph 50.9 come into existence, take one or more of the actions specified below:

- (1) carry out the applicable customer identification procedure; or
- (2) based on the assessed ML/TF risk and its risk-based systems and controls, assess whether it is reasonable to rely upon any of the following as an appropriate means to identify and verify the identification of the customer if previously undertaken by the first reporting entity:
  - (a) a prescribed verification procedure;

- (b) an identification reference; or
  - (c) a procedure approved by the AUSTRAC CEO; or
  - (d) any relevant identification obtained by the second reporting entity in regard to subparagraph 50.4(2)(c)(if applicable); or
- (3) collect any KYC information in respect of the customer;
  - (4) verify, from a reliable and independent source, KYC information that has been obtained in respect of the customer;

for the purpose of enabling the second reporting entity to be reasonably satisfied that the customer is the person that he or she claims to be.

50.9 For the purposes of paragraph 50.8, the following circumstances are specified:

- (1) a suspicious matter reporting obligation arises in relation to the customer to which the second reporting entity has commenced to provide a designated service; or
- (2) a significant increase has occurred in the level of ML/TF risk as assessed under the AML/CTF program of the designated business group to which the second reporting entity belongs, in relation to the provision of a designated service by the second reporting entity to a customer of the first reporting entity.

50.10 In this Chapter:

- (1) 'reporting entity one' means the reporting entity that assigns, conveys, sells or transfers a whole or a part of the business to reporting entity two;
- (2) 'reporting entity two' means the reporting entity to which reporting entity one assigns, conveys, sells or transfers a whole or a part of the business;
- (3) 'reporting entity three' means the reporting entity which treats a customer of reporting entity two, as a pre-commencement customer;
- (4) 'first reporting entity' means a reporting entity which is a member of a designated business group;
- (5) 'second reporting entity' means a reporting entity which is a member of the same designated business group to which the first reporting entity belongs;
- (6) 'prescribed verification procedure', 'identification reference' and 'procedure approved by the AUSTRAC CEO' have the same meaning as in the *Financial Transaction Reports Act 1988* and the *Financial Transaction Reports Regulations 1990*;
- (7) 'transferring customer' means a customer who is a customer of reporting entity three in relation to a designated service solely because of the assignment, conveyance, sale or transfer of the whole or part of the business from reporting entity one to reporting entity two.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

## **AML/CTF Rules relating to certain definitions under the AML/CTF Act - Ordering and Beneficiary Institutions, Financial Institutions and Non-Financiers**

### **Part 51.1 Introduction**

51.1.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the definition of ‘financial institution’ in section 5 of the AML/CTF Act under paragraph (e), the definition of ‘non-financier’ in section 5 of the AML/CTF Act under paragraph (e), the definition of ‘ordering institution’ and ‘beneficiary institution’ in subparagraphs 8(1)(c)(v), 8(1)(d)(v), 8(2)(c)(v), 9(1)(c)(v), 9(1)(d)(v) and 9(2)(c)(v) of the AML/CTF Act and the conditions under paragraph 45(1)(c) of that Act.

### **Part 51.2 Western Union Business Solutions (Australia) Pty Ltd**

51.2.1 For the purposes of subparagraph (e) of the definition of ‘financial institution’ in section 5 of the AML/CTF Act, the following persons are specified, subject to the applicable conditions in paragraph 51.2.4:

- (1) Western Union Business Solutions (Australia) Pty Ltd  
ABN 24 150 129 749.

51.2.2 For the purposes of subparagraph (e) of the definition of ‘non-financier’ in section 5 of the AML/CTF Act, the following persons are specified, subject to the applicable conditions in paragraph 51.2.4:

- (1) Western Union Business Solutions (Australia) Pty Ltd  
ABN 24 150 129 749.

51.2.3 For the purposes of subparagraphs 8(1)(c)(v), 8(1)(d)(v), 8(2)(c)(v), 9(1)(c)(v), 9(1)(d)(v) and 9(2)(c)(v), the following persons are specified, subject to the applicable conditions in paragraph 51.2.4:

- (1) Western Union Business Solutions (Australia) Pty Ltd  
ABN 24 150 129 749.

51.2.4 For the purposes of paragraphs 51.2.1 – 51.2.3, the following conditions are specified in relation to international funds transfer instructions covered by item 1 or 2 of the table in section 46:

- (1) the person uses a proprietary system to send or receive the international funds transfer instruction; and

- (2) the person is licensed under the *Corporations Act 2001* to deal in a foreign exchange contract; and
- (3) the person is not acting in the capacity of an agent or non-financier; and either of the following two additional conditions is also met:
- (4) the person is a wholly owned or majority owned subsidiary of an ADI, bank, building society or credit union; or
- (5) the person is part of a member-administered closed user group.

**Part 51.3 PayPal Pte Ltd., PayPal Inc and PayPal Hong Kong Limited.**

51.3.1 For the purposes of subparagraphs 8(1)(c)(v), 8(1)(d)(v), 8(1)(e)(v), 9(1)(c)(v), 9(1)(d)(v) and 9(2)(c)(v), the following persons are specified:

- (1) PayPal Pte Ltd. 200509725E (PayPal Singapore) 09-01, Suntec Tower 5, 5 Temasek Boulevard, Singapore 038902;
- (2) PayPal Inc. 770510487 (PayPal USA) 2211 North First Street San Jose, California 95131; and
- (3) PayPal Hong Kong Limited. 1144926 (PayPal Hong Kong), Rooms 1506-07, 15/F, Central Plaza, 18 Harbour Road, Wan Chai, Hong Kong.

51.4 In this Chapter:

- (1) 'foreign exchange contract' has the same meaning as in the *Corporations Act 2001*;
- (2) 'member-administered closed user group' means a group that is SWIFT operated, SWIFT member administered service that enables the members of the closed user group to exchange SWIFT financial messages and file services with other members of the group;
- (3) 'proprietary system' includes the Society for Worldwide Interbank Financial Telecommunication (SWIFT).

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

**Persons who are licensed to operate no more than 15 gaming machines**

52.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 247(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

52.2 Subject to the circumstances specified in paragraphs 3 and each class of provision of the AML/CTF Act contained in the following table is specified as not applying to a designated service provided by a reporting entity:

<b>Class of Provision</b>	<b>Application</b>
Part 2, Division 2	Whole division
Part 2, Division 3	Whole division
Part 2, Division 4	Whole division
Part 2, Division 5	Whole division
Part 2, Division 6	Whole division
Part 2, Division 7	Sections 37, 38
Part 3, Division 3	Section 43 only
Part 3, Division 4	Section 45 only
Part 3, Division 5	Whole division
Part 5	Whole Part
Part 7	Whole Part
Part 10	Sections 104, 105, 106, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119 only

52.3. The designated service provided by the reporting entity is one of the following designated services described in table 3 in subsection 6(4) of the AML/CTF Act:

- (1) item 5;
- (2) item 6;
- (3) item 9;
- (4) item 10.

52.4 The exemption contained in paragraph 52.2 only applies if:

- (1) the reporting entity:
  - (a) by itself; and
  - (b) if it is related to one or more reporting entities within the meaning of section 50 of the *Corporations Act 2001*, then the related reporting entities collectively;
 

has a total entitlement under licences issued by one or more States or Territories to operate no more than 15 gaming machines; and
- (2) the reporting entity



- (a) by itself; and
  - (b) if it is related to one or more reporting entities within the meaning of section 50 of the *Corporation Act 2001*, then the related reporting entities collectively;
- only provides one or more of the following designated services described in table 3 in subsection 6(4) of the AML/CTF Act:
- (c) item 5; or
  - (d) item 6; or
  - (e) item 9; or
  - (f) item 10; and
- (3) the designated service described at subparagraphs 52.4(1)(d) and 52.4(2)(e) involves a game played on a gaming machine.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Reporting obligations of registered remittance affiliates**

- 54.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purpose of subsections 49A(1) and 49B(1) of that Act and in reliance on section 4 of the *Acts Interpretation Act 1901*. These Rules come into effect on the date that section 49A comes into effect.
- 54.2 An obligation imposed by subsection 43(2) or 45(2) of the AML/CTF Act upon a registered remittance affiliate of a registered remittance network provider to give a report to the AUSTRAC CEO is taken instead to be an obligation imposed upon, and must be discharged by, the registered remittance network provider.
- 54.3 If a suspicious matter reporting obligation imposed by subsection 41(1) of the AML/CTF Act upon a registered remittance affiliate of a registered remittance network provider arises, that obligation may be met by the registered remittance network provider under a written agreement in place between the registered remittance affiliate and the registered remittance network provider.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

*the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

## **Remittance Sector Register**

- 55.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of subsection 75(4) of that Act and in reliance on section 4 of the *Acts Interpretation Act 1954*. These Rules come into effect on the date that section 75 of the AML/CTF Act comes into effect.
- 55.2 If the AUSTRAC CEO believes on reasonable grounds that an entry on the Remittance Sector Register (the Register) is incorrect or incomplete, the AUSTRAC CEO may correct or complete the entry.
- 55.3 (1) If the AUSTRAC CEO corrects or makes complete a person's entry on the Register, the AUSTRAC CEO must, within 14 days, give a written notice to the person; and
- (2) The notice must set out:
- (a) the changes that the AUSTRAC CEO has made to the entry; and
- (b) the date on which the changes were made.
- 55.4 If the circumstances as specified in paragraph 55.2 apply to a registered remittance affiliate, then the written notice as specified in paragraph 55.3 must also be sent to the registered remittance network provider of the registered remittance affiliate.
- 55.5 The AUSTRAC CEO may publish on AUSTRAC's website all or part of the information entered on the Register.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

**Information to be included in an application for registration as a remittance network provider, a remittance affiliate of the registered remittance network provider or an independent remittance dealer**

- 56.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of subsection 75(4) and paragraph 75B(4) of that Act and in reliance on section 4 of the *Acts Interpretation Act 1901*. Sections 136 and 137 of the AML/CTF Act apply to paragraph of this Chapter.
- 56.2 An application by a person (the applicant) for registration as a remittance network provider must be made by an authorised individual on behalf of the applicant and:
- (1) contain the information set out in Part A of Schedule 1 to this Chapter; and
  - (2) obtain and retain the information set out in Part B of Schedule 1 to this Chapter; and
  - (3) include a declaration made by the authorised individual that each of the key personnel of the applicant has been subject to, and satisfied, the employee due diligence program of the applicant; and
  - (4) include a declaration made by the authorised individual that the information provided in Schedule 1 of this Chapter is true, accurate and complete.
- 56.3 An application made by a registered remittance network provider (the applicant) for another person (other person) to be registered as a remittance affiliate of the applicant, must be made by an authorised individual on behalf of the applicant and:
- (1) contain the information set out in Part A of Schedule 2 to this Chapter; and
  - (2) obtain and retain the information set out in Part B of Schedule 2 to this Chapter; and
  - (3) include a declaration made by the authorised individual that the applicant has assessed the other person and its personnel in accordance with the applicant's obligations; that person's obligations under the AML/CTF Act and AML/CTF Rules; and
  - (4) include a declaration made by the authorised individual that the information provided in Schedule 2 of this Chapter is true, accurate and complete.
- 56.4 An application by a person (the applicant) for registration as an independent remittance dealer must be made by an authorised individual on behalf of the applicant and:
- (1) contain the information set out in Part A of Schedule 3 to this Chapter; and
  - (2) obtain and retain the information set out in Part B of Schedule 3 to this Chapter; and
  - (3) include a declaration made by the authorised individual that each of the key personnel of the applicant has been subject to the employee due diligence program of the applicant; and
  - (4) include a declaration made by the authorised individual

that the information provided in Schedule 3 of this Chapter is true, accurate and complete.

56.5 An application made by an independent remittance dealer (the applicant) for registration as a remittance affiliate of a registered network provider must be made by an authorised individual on behalf of the applicant and:

- (1) contain the information set out in Part A of Schedule 3 to this Chapter; and
- (2) obtain and retain the information set out in Part B of Schedule 3 to this Chapter; and
- (3) include a declaration made by the authorised individual that each of the key personnel of the applicant has been subject to the employee due diligence program of the applicant; and
- (4) include a declaration made by the authorised individual that the information provided in the application is true, accurate and complete.

56.6 A reference in this Chapter to a person or key personnel of a person who have been convicted of an offence includes a reference to a person in respect of whom an order has been made under section 19B of the *Crimes Act 1914*, or under a corresponding provision of a law of a State, a Territory or a foreign country, in relation to the offence.

56.7 To avoid doubt, these AML/CTF Rules do not affect the operation of Part VIIC of the *Crimes Act 1914*, including the application of Part VIIC to disclosable convictions.

*Note: This means that certain convictions which are spent convictions are not required to be disclosed under these AML/CTF Rules.*

56.8 In this Chapter:

- (1) 'accredited agency' means an agency approved by the Australian Crime Commission to access the National Police Checking Service;

*Note: In 2016, the list of accredited agencies as specified by the Australian Crime Commission was available on the Australian Crime Commission website (www.acic.gov.au).*

- (2) 'associated entity' has the meaning given by section 5 of the *Corporations Act 2001*;
- (3) 'Australian Police Force' means ACT Policing, the Australian Federal Police, the New South Wales Police Service, the Northern Territory Police, the Queensland Police Service, the Victoria Police, the South Australia Police, the Tasmania Police Service and the Western Australia Police;
- (4) 'authorised individual' means a natural person who is
  - (a) a beneficial owner; or
  - (b) an officer as defined in section 9 of the *Corporations Act 2001* or;
  - (c) is an employee of the applicant who has been

authorised in writing by an applicant to act in this capacity;

- (5) 'beneficial owner' has the same meaning as in Chapter 8 of these AML/CTF Rules;
- (6) 'body' has the same meaning as in the *Corporations Act 2001*;
- (7) 'company' has the same meaning as in the *Corporations Act 2001*;
- (8) 'control' has the meaning given by section 50AA of the *Corporations Act 2001*;
- (9) 'Australian Crime Commission' means the agency which, in addition to its other functions, provides systems and services relating to national policing information, including the provision of nationally coordinated criminal history checks;
- (10) 'destination' includes country and a city or town of that country;
- (11) 'disclosable convictions' means a conviction that:
  - (a) has been recorded by a court; and
  - (b) has not been spent under the laws of the country in which the conviction was recorded;
- (12) 'employee due diligence program' has the same meaning as in Chapter 8 of the AML/CTF Rules;
- (13) 'enforcement action' includes any action of a corrective or punitive nature in respect of an alleged breach of a law taken by a regulatory body of the Commonwealth or a State or Territory, or a government body;
- (14) 'entity' has the same meaning as in section 9 of the *Corporations Act 2001*;
- (15) 'fraud' means dishonestly obtaining a benefit by deception or other means;
- (16) 'key personnel' means:
  - (a) in the case of a company, corporation sole or body politic, is a natural person that is:
    - (i) a beneficial owner; or
    - (ii) an officer as defined in section 9 of the *Corporations Act 2001*, or an employee or agent of the body corporate with duties of such responsibility that his or her conduct may fairly be assumed to represent the body corporate policy;
  - (b) in the case of an individual, trust or partnership, is a natural person that is an employee or agent of the individual, trust or partnership with duties of such responsibility that his or her conduct may fairly be assumed to represent the policy of the individual, trust or partnership;
- (17) 'National Police Certificate' means a document that

- (17) 'National Police Certificate' means a document that contains a certification, effective on a national basis, that a natural person to whom it relates either has no disclosable convictions or has a disclosable conviction that is detailed in the Certificate; and
- (a) if the natural person to whom it relates is a resident of Australia, is issued by an Australian police force;
  - (b) if the natural person to whom it relates is a resident of another country, is issued by a police force of that other country;
- (18) 'National Police Checking Service Support System' means the information database administered by the Australian Crime Commission which supports the process of national police history checking;
- (19) 'National Police History Check' means a police history record check carried out by the Australian Crime Commission within Australia through the National Police Checking Service and provided to an accredited agency which contains the information specified in subparagraph 1(b) of Part B of Schedules 1, 2 and 3 of Chapter 56;
- (20) 'people smuggling' means conduct that amounts to:
- (a) an offence against Division 73 of the *Criminal Code*; or
  - (b) an offence against Subdivision A, Division 12, Part 2 of the *Migration Act 1958*; or
  - (c) an offence against a law of a foreign country or part of a foreign country that corresponds:
    - (i) to an offence referred to in paragraph (a) or (b); or
    - (ii) with the *Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime*;
- (21) 'person' has the same meaning as in the AML/CTF Act;
- (22) 'reference number' means an identifier (including an Organisation Registration Number supplied by the Australian Crime Commission) allocated by an accredited agency to the National Police History Check request, which identifies the search results obtained by that agency from the National Police Checking Service Support System;
- (23) 'serious offence' means an offence which is:
- (a) an offence against a law of the Commonwealth, a law of a State or Territory, punishable on indictment by imprisonment for life or 2 or more years, that may be dealt with as an indictable offence (even if it may, in some circumstances, be dealt with as a summary offence) regardless of whether the offence proceeded summarily or on indictment; or
  - (b) an offence against a law of a foreign country constituted by conduct that, if it had occurred in

constituted by conduct that, if it had occurred in Australia, would have constituted a serious offence.

A 'serious offence' in relation to a person other than an individual means an offence which would have been a serious offence if the person had been an individual;

(24) 'subsidiary' has the same meaning as in the *Corporations Act 2001*;

(25) 'terrorism' means conduct that amounts to:

- (a) an offence against Division 101 or 102 of the *Criminal Code*; or
- (b) an offence against a law of a State or Territory that corresponds to an offence referred to in paragraph (a); or
- (c) an offence against a law of a foreign country or part of a foreign country that corresponds to an offence referred to in paragraph (a).

56.9 In these Rules, the terms 'domestic company', 'registered cooperative', 'registered foreign company', 'relevant foreign registration body' and 'unregistered foreign company' have the same respective meanings as in Chapter 1 of the AML/CTF Rules.

## **Schedule 1 - Information to be provided or relating to an application for registration as a remittance network provider**

### **Part A Information to be provided by the applicant pursuant to paragraph 75B(3)(b) of the AML/CTF Act**

1. The name of the applicant;
2. The business name(s) under which the applicant is carrying on business, or proposes to carry on a business, of providing a registrable designated remittance service;
3. A description of whether the applicant is operating as an individual, company, partnership, trust or through any other legal structure;
4. The full street address of the person's principal place of business at which the person provides or proposes to provide a designated remittance service, not being a branch of that person;
5. If the applicant has an ACN or ARBN - that number;
6. If the applicant has an ABN - that number;
7. If the applicant holds an Australian financial services licence - the number of that licence;
8. If the applicant holds an Australian credit licence - the number of that licence;
9. The foreign equivalent of the ACN, ABN, ARBN, AFSL or Australian credit licence number, together with the country in which the number was issued;
10. If the applicant is registered or licensed in a foreign country to provide remittance services - details of that registration or

provide remittance services details of that registration or licence;

11. The applicant's telephone number at its principal place of business;
12. The applicant's facsimile number at its principal place of business (if applicable);
13. The applicant's email address at its principal place of business (if applicable);
14. The full name and business address (not being a post box address), and, where applicable, any business registration number(s) of:
  - (a) if the applicant is an individual – that individual;
  - (b) if the applicant comprises a partnership – the full name and address (not being a post box address) of each partner of the partnership;
  - (c) if the applicant is a trust – the name of each trustee;
  - (d) if the applicant is a company – the beneficial owner(s) of the company;
15. In respect of the authorised individual and each of the key personnel, those individuals':
  - (a) full name;
  - (b) date of birth;
  - (c) position or title;
  - (d) business telephone number;
  - (e) business facsimile number (if applicable);
  - (f) business email address (if applicable); and
  - (g) full business address (not being a post box address);
16. A description of the business carried on or proposed to be carried on by the applicant;
17. The date on which the applicant commenced or is to commence offering registrable designated remittance services;
18. Whether the applicant or any of its key personnel:
  - (a) has been charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism, terrorism, people smuggling, fraud, a serious offence, an offence under the AML/CTF Act, or an offence under the *Financial Transaction Reports Act 1988* (FTR Act);
  - (b) has been subject to a civil penalty order made under the AML/CTF Act;
  - (c) has been the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities, which was determined adversely to the applicant or any of its key personnel (including by the applicant or any of its key personnel consenting to an order or direction, or giving an undertaking not to engage in unlawful or improper conduct);



undertaking, not to engage in unlawful or improper conduct and which reflected adversely on the applicant's competence, diligence, judgement, honesty or integrity;

and if so, the details of each instance as the case may be, for the applicant and each of its key personnel.

*Note: The above does not affect the operation of Part VIIC of the Crimes Act 1914, which means that certain convictions that a person has spent convictions are not required to be disclosed under these AML/CTF Rules.*

19. Details of whether the applicant is:

- (a) a subsidiary of another entity or entities; or
- (b) controlled by another entity or entities; and

if so

- (c) the full names, addresses, positions and titles of the directors of the other entity or entities; and
- (d) the ACN, ABN, ARBN (or foreign equivalent) of the other entity or entities (as applicable);

20. The business contact details of the individual completing the application for registration, comprising:

- (a) full name;
- (b) position or title;
- (c) date of birth (optional);
- (d) telephone number;
- (e) facsimile number (if applicable);
- (f) email address; and
- (g) postal address.

**Part B Information to be obtained and retained by the applicant pursuant to subsection 75(4) of the AML/CTF Act**

1. (a) the original or certified copy (as applicable) of a National Police Certificate (or foreign equivalent if one is able to obtain) that has been issued within the 6 month period preceding the date of application for registration, for each of the key personnel of the applicant; or

(b) a National Police History Check (NPHC) that has been issued within the 6 month period preceding the date of application for registration, for each of the key personnel of the applicant, which:

- (i) has been obtained from an accredited agency;
- (ii) specifies the full name and date of birth of the natural person to whom the NPHC relates;
- (iii) provides relevant information regarding the natural person to whom the NPHC relates;

person to whom the NPHC relates, which will enable the applicant to make an informed decision as to whether that natural person has any disclosable convictions arising from any court outcomes within Australia which are disclosable;

- (iv) specifies the reference number allocated to the NPHC by the accredited agency;
- (v) specifies the name of the accredited agency which obtained the NPHC; and
- (vi) specifies the date on which the NPHC was released.

*Note 1: Subsection 6E(1A) of the Privacy Act 1988 applies the Australian Privacy Principles to all reporting entities in relation to their activities under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006.*

*Note 2: A reporting entity intending to disclose a NPHC or information from it to AUSTRAC should ensure that it complies with any requirements of the Australian Crime Commission in regard to that disclosure.*

2. The full street address of each branch at which the applicant provides or proposes to provide registrable designated remittance services (if applicable);

3. Information relating to the applicant (as applicable):

*If the person is a company*

4. domestic company:

- (a) if the company is registered as a proprietary company, the name of each director of the company;

5. registered foreign company:

- (a) the country in which the company was formed, incorporated or registered;
- (b) whether the company is registered by the relevant foreign registration body; and
- (c) the name of each director of the company;

6. unregistered foreign company:

- (a) the country in which the company was formed, incorporated or registered;
- (b) whether the company is registered by the relevant foreign registration body; and if so:
  - (i) the full address of the company in its country of formation, incorporation or registration as registered; and
  - (ii) the name of each director of the company;
- (c) if the company is not registered by the relevant foreign registration body, the full address of the principal place of business of the company in its country of formation or incorporation;

*If the person is a trust*

*If the person is a trust*

7. the type of trust;
8. (a) the full name of each beneficiary in respect of the trust or
- (b) if the terms of the trust identify the beneficiaries by reference to membership of a class – details of the class

*If the person is an association (incorporated)*

9. (a) the full names of the officer holders, including the chairman, secretary and treasurer or equivalent officer in each case of the association; and
- (b) the full names of any members of the governing committee (howsoever described);

*If the person is an association (unincorporated)*

10. (a) the full names of the officer holders, including the chairman, secretary and treasurer or equivalent officer in each case of the association; and
- (b) the full names of any members of the governing committee (howsoever described);

*If the person is a registered co-operative*

11. the full names of the officer holders, including the chairman, secretary or treasurer or equivalent officer in each case of the co-operative;
12. (a) the main destination(s) where money or property is transferred, received or is likely to be received as a result of a transaction entered into by the applicant under a designated remittance arrangement; and
- (b) the main destination(s) from which money or property is transferred, or is likely to be transferred by the applicant, under a designated remittance arrangement.

**Schedule 2 - Information to be provided or relating to an application by a registered remittance network provider in regard to the registration of a remittance affiliate**

**Part A Information to be provided by the applicant in regard to the registration of a remittance affiliate pursuant to paragraph 75B(3)(b) of the AML/CTF Act**

1. The name of the person (other person) who is proposed to be registered as a remittance affiliate of the applicant;
2. The business name(s) under which the other person is carrying on a business, or proposes to carry on a business, of providing a registrable designated remittance service;
3. A description of whether the other person is operating as an individual, company, partnership, trust or through any other legal structure;

4. The full street address of the other person's principal place of business at which the other person provides or proposes to provide a designated service, not being a branch of that other person;
5. If the other person has an ACN or ARBN – that number;
6. If the other person has an ABN – that number;
7. If the other person holds an Australian financial services licence – the number of that licence;
8. If the other person holds an Australian credit licence – the number of that licence;
9. The foreign equivalent of the ACN, ABN, ARBN, AFSL or Australian credit licence number, together with the country in which the number was issued;
10. If the other person is registered or licensed in a foreign country to provide remittance services – details of that registration or licence;
11. The other person's telephone number at its principal place of business;
12. The other person's facsimile number at its principal place of business (if applicable);
13. The other person's email address at its principal place of business (if applicable);
14. The full name and business address (not being a post box address), and, where applicable, any business registration number(s) of:
  - (a) if the other person is an individual – that individual; or
  - (b) if the other person comprises a partnership – the full name and address (not being a post box address) of each partner of the partnership;
  - (c) if the other person is a trust – the name of each trustee;
  - (d) if the other person is a company – the beneficial owner of the company;
15. In respect of each of the key personnel of the other person, individuals':
  - (a) full name;
  - (b) date of birth;
  - (c) position or title;
  - (d) business telephone number;
  - (e) business facsimile number (if applicable);

(f) business email address (if applicable); and

(g) full business address (not being a post box address);

16. A description of the business carried on or proposed to be carried on by the other person;

-

17. The date on which the other person commenced or is to commence offering registrable designated remittance service

18. Whether the other person or any of its key personnel:

(a) has been charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism, terrorism, people smuggling, fraud, a serious offence, an offence under the AML/CTF Act, or an offence under the *Financial Transaction Reports Act 1988* (FTR Act);

(b) has been subject to a civil penalty order made under the AML/CTF Act;

(c) has been the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities, which was determined adversely to the other person or any of its key personnel (including by the other person or any of its key personnel consenting to an order or direction, or giving an undertaking, not to engage in unlawful or improper conduct and which reflected adversely on the other person's competence, diligence, judgement, honesty or integrity;

and if so, the details of each instance as the case may be, for the other person and each of its key personnel;

*Note: The above does not affect the operation of Part VIIC of the Crimes Act 1914, which means that certain convictions that a person has spent convictions are not required to be disclosed under these AML/CTF Rules.*

19. Details of whether the other person is:

(a) a subsidiary of another entity or entities; or

(b) controlled by another entity or entities; and

if so

(c) the full names, addresses, positions and titles of the directors of the other entity or entities; and

(d) the ACN, ABN, ARBN (or foreign equivalent) of the other entity or entities (as applicable);

20. The business contact details of the individual completing the application for registration, comprising:

(a) full name;

(b) position or title;

(c) date of birth (optional);

- (d) telephone number;
- (e) facsimile number (if applicable);
- (f) email address; and
- (g) postal address.

**Part B Information to be obtained and retained by the applicant relating to the registration of a remittance affiliate pursuant to subsection 75(4) of the AML/CTF Act**

1.
  - (a) the original or certified copy (as applicable) of a National Police Certificate (or foreign equivalent if one is able to be obtained) that has been issued within the 12 month period preceding the date of application for registration, for each of the key personnel of the other person; or
  - (b) a National Police History Check (NPHC) document that has been issued within the 12 month period preceding the date of the application for registration, for each of the key personnel of the other person, which:
    - (i) has been obtained from an accredited agency;
    - (ii) specifies the full name and date of birth of the natural person to whom the NPHC relates;
    - (iii) provides relevant information regarding the natural person to whom the NPHC relates, which will enable the applicant to make an informed decision as to whether that natural person has any disclosable convictions arising from any court outcomes within Australia which are disclosable;
    - (iv) specifies the reference number allocated to the NPHC by the accredited agency;
    - (v) specifies the name of the accredited agency which obtained the NPHC; and
    - (vi) specifies the date on which the NPHC was released.

*Note 1: Subsection 6E(1A) of the Privacy Act 1988 applies the Australian Privacy Principles to all reporting entities in relation to their activities under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006.*

*Note 2: A reporting entity intending to disclose a NPHC or information from it to AUSTRAC should ensure that it complies with any requirements of the Australian Crime Commission in regard to that disclosure.*

2. The original or a certified copy (as applicable) of the report of the most recent due diligence assessment that has been carried out by the applicant of the suitability of the other person to be a remittance affiliate of the applicant;

3. The original or a certified copy (as applicable) of the consent of the other person to be registered as a remittance affiliate of the registered remittance network provider;
4. The full street address of each branch at which the other person provides or proposes to provide registrable designated remittance services (if applicable);
5. Information relating to the other person (as applicable):

*If the person is a company*

6. domestic company:
  - (a) if the company is registered as a proprietary company, the name of each director of the company;
7. registered foreign company:
  - (a) the country in which the company was formed, incorporated or registered;
  - (b) whether the company is registered by the relevant foreign registration body; and
  - (c) the name of each director of the company;
8. unregistered foreign company:
  - (a) the country in which the company was formed, incorporated or registered;
  - (b) whether the company is registered by the relevant foreign registration body; and if so:
    - (i) the full address of the company in its country of formation, incorporation or registration as registered, and
    - (ii) the name of each director of the company;
  - (c) if the company is not registered by the relevant foreign registration body, the full address of the principal place of business of the company in its country of formation or incorporation;

*If the person is a trust*

9. the type of trust;
10. (a) the full name of each beneficiary in respect of the trust, or
- (b) if the terms of the trust identify the beneficiaries by reference to membership of a class – details of the class

*If the person is an association (incorporated)*

11. (a) the full names of the officer holders, including the chairman, secretary and treasurer or equivalent officer in each case of the association; and
- (b) the full names of any members of the governing committee (howsoever described);

*If the person is an association (unincorporated)*

*If the person is an association (unincorporated)*

12. (a) the full names of the officer holders, including the chairman, secretary and treasurer or equivalent officer in each case of the association; and
- (b) the full names of any members of the governing committee (howsoever described);

*If the person is a registered co-operative*

13. the full names of the officer holders, including the chairman, secretary or treasurer or equivalent officer in each case of the co-operative;
14. (a) the main destination(s) where money or property is transferred, received or is likely to be received as a result of a transaction with the other person under a designated remittance arrangement; and
- (b) the main destination(s) from which money or property is transferred or is likely to be transferred by the other person under a designated remittance arrangement.

**Schedule 3 - Information to be provided or relating to an application for registration as an independent remittance dealer or an application for registration as a remittance affiliate made by an independent remittance dealer**

**Part A Information to be provided by the applicant pursuant to paragraph 75B(3)(b) of the AML/CTF Act**

1. The name of the applicant;
2. The business name(s) under which the applicant is carrying on business, or proposes to carry on a business, of providing a registrable designated remittance service;
3. A description of whether the applicant is operating as an individual, company, partnership, trust or through any other legal structure;
4. The full street address of the person's principal place of business at which the person provides or proposes to provide a designated remittance service, not being a branch of that person;
5. If the applicant has an ACN or ARBN - that number;
6. If the applicant has an ABN - that number;
7. If the applicant holds an Australian financial services licence - the number of that licence;
8. If the applicant holds an Australian credit licence - the number of that licence;
9. The foreign equivalent of the ACN, ABN, ARBN, AFSL or Australian credit licence number, together with the country in which the number was issued;
10. If the applicant is registered or licensed in a foreign country to provide remittance services - details of that registration or licence;
11. The applicant's telephone number at its principal place of



11. The applicant's telephone number at its principal place of business;
12. The applicant's facsimile number at its principal place of business (if applicable);
13. The applicant's email address at its principal place of business (if applicable);
14. The full name and business address (not being a post box address), and, where applicable, any business registration number(s) of:
  - (a) if the applicant is an individual – that individual;
  - (b) if the applicant comprises a partnership – the full name and address (not being a post box address) of each partner of the partnership;
  - (c) if the applicant is a trust – the name of each trustee;
  - (d) if the applicant is a company – the beneficial owner(s) of the company;
15. In respect of the authorised individual and each of the key personnel, those individuals':
  - (a) full name;
  - (b) date of birth;
  - (c) position or title;
  - (d) business telephone number;
  - (e) business facsimile number (if applicable);
  - (f) business email address (if applicable); and
  - (g) full business address (not being a post box address);
16. A description of the business carried on or proposed to be carried on by the applicant;
17. The date on which the applicant commenced or is to commence offering registrable designated remittance services;
18. Whether the applicant or any of its key personnel:
  - (a) has been charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism, terrorism, people smuggling, fraud, a serious offence, an offence under the AML/CTF Act, or an offence under the *Financial Transaction Reports Act 1988* (FTR Act);
  - (b) has been the subject of a civil penalty order made under the AML/CTF Act;
  - (c) has been the subject of civil or criminal proceedings or an enforcement action, in relation to the management of an entity, or commercial or professional activities, which was determined adversely to the applicant or any of its key personnel (including by the applicant or any of its key personnel consenting to an order or direction, or giving an undertaking, not to engage in unlawful or improper conduct and which reflected adversely on the applicant's competence, diligence, judgement, honesty or integrity;

and if so, the details of each instance as the case may be, for the applicant and each of its key personnel;

*Note: The above does not affect the operation of Part VIIC of the Crimes Act 1914, which means that certain convictions that a person has spent convictions are not required to be disclosed under these AML/CTF Rules.*

19. Details of whether the applicant is:
  - (a) a subsidiary of another entity or entities; or
  - (b) controlled by another entity or entities; andif so
  - (c) the full names, addresses, positions and titles of the directors of the other entity or entities; and
  - (d) the ACN, ABN, ARBN (or foreign equivalent) of the other entity or entities (as applicable);
20. The following details of the registered remittance network provider of which the applicant is a remittance affiliate (if applicable):
  - (a) the name of the registered remittance network provider and
  - (b) the registration number as specified by AUSTRAC of the registered remittance network provider;
21. The business contact details of the individual completing the application for registration, comprising:
  - (a) full name;
  - (b) position or title;
  - (c) date of birth (optional);
  - (d) telephone number;
  - (e) facsimile number (if applicable);
  - (f) email address; and
  - (g) postal address.

**Part B Information to be obtained and retained by the applicant pursuant to subsection 75(4) of the AML/CTF Act**

1.
  - (a) the original or certified copy (as applicable) of a National Police Certificate (or foreign equivalent if one is able to obtain) that has been issued within the 6 month period preceding the date of application for registration, for each of the key personnel of the applicant; or
  - (b) a National Police History Check (NPHC) document that has been issued within the 6 month period preceding the date of the application for registration, for each of the key personnel of the applicant, which:
    - (i) has been obtained from an accredited agency;

- (ii) specifies the full name and date of birth of the natural person to whom the NPHC relates;
- (iii) provides relevant information regarding the natural person to whom the NPHC relates, which will enable the applicant to make an informed decision as to whether that natural person has any disclosable convictions arising from any court outcomes within Australia which are disclosable;
- (iv) specifies the reference number allocated to the NPHC by the accredited agency;
- (v) specifies the name of the accredited agency which obtained the NPHC; and
- (vi) specifies the date on which the NPHC was released.

*Note 1: Subsection 6E(1A) of the Privacy Act 1988 applies the Australian Privacy Principles to all reporting entities in relation to their activities under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006.*

*Note 2: A reporting entity intending to disclose a NPHC or information from it to AUSTRAC should ensure that it complies with any requirements of the Australian Criminal Commission in regard to that disclosure.*

2. The original or a certified copy (as applicable) of the consent of the remittance network provider for the independent remittance dealer to make an application for registration as a remittance affiliate of the remittance network provider (if applicable);
3. The full street address of each branch at which the applicant provides or proposes to provide registrable designated remittance services (if applicable);
4. Information relating to the applicant (as applicable):
  - If the person is a company*
5. domestic company:
  - (a) if the company is registered as a proprietary company, the name of each director of the company;
6. registered foreign company:
  - (a) the country in which the company was formed, incorporated or registered;
  - (b) whether the company is registered by the relevant foreign registration body; and
  - (c) the name of each director of the company;
7. unregistered foreign company:
  - (a) the country in which the company was formed, incorporated or registered;
  - (b) whether the company is registered by the relevant foreign registration body; and if so:

- (i) the full address of the company in its country of formation, incorporation or registration as registered and
- (ii) the name of each director of the company;
- (c) if the company is not registered by the relevant foreign registration body, the full address of the principal place of business of the company in its country of formation or incorporation;

*If the person is a trust*

- 8. the type of trust;
- 9. (a) the full name of each beneficiary in respect of the trust or
- (b) if the terms of the trust identify the beneficiaries by reference to membership of a class – details of the class

*If the person is an association (incorporated)*

- 10. (a) the full names of the officer holders, including the chairman, secretary and treasurer or equivalent officer in each case of the association; and
- (b) the full names of any members of the governing committee (howsoever described);

*If the person is an association (unincorporated)*

- 11. (a) the full names of the officer holders, including the chairman, secretary and treasurer or equivalent officer in each case of the association; and
- (b) the full names of any members of the governing committee (howsoever described);

*If the person is a registered co-operative*

- 12. the full names of the officer holders, including the chairman, secretary or treasurer or equivalent officer in each case of the co-operative;
- 13. (a) the main destination(s) where money or property is transferred, received or is likely to be received as a result of a transaction entered into by the applicant under a designated remittance arrangement and
- (b) the main destination(s) from which money or property is transferred, received or is likely to be transferred by the applicant under a designated remittance arrangement.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 962.*

obligations, please go to <http://www.austrac.gov.au> or call 1800 000 000

## **Matters to be considered by the AUSTRAC CEO in considering applications for registration**

57.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of subsection 75C(2)(b) of that Act.

57.2 In considering an application for registration of a person made under subsection 75B(1) or (2) of that Act, and without limiting the matters that the AUSTRAC CEO may have regard to in deciding whether the registration of the person would involve a significant level of money laundering, terrorism financing, people smuggling or other serious crime risk, the matters specified in paragraph 57.3 must be considered.

57.3 For the purposes of paragraph 57.2, the matters specified are:

- (1) the information set out in Schedules 1, 2 or 3, as the case may be, of Chapter 56 to be contained in the application for registration;
- (2) the declarations required under the paragraphs 56.2, 56.4 or 56.5, as the case may be, of Chapter 56 of the AML/CTF Rules;
- (3) offences of which the applicant for registration, a person proposed to be entered on the Remittance Sector Register as a remittance affiliate of the applicant, or any other person has been charged or convicted under the law of the Commonwealth, a State or Territory or a foreign country;
- (4) the compliance or non-compliance of the applicant, a person proposed to be entered on the Remittance Sector Register as a remittance affiliate of the applicant, or any other person, with this Act or any other law;
- (5) the legal and beneficial ownership and control of the applicant, a person proposed to be entered on the Remittance Sector Register as a remittance affiliate of the applicant, or any other person;
- (6) the kinds of designated services to be provided by the applicant or by a person proposed to be entered on the Remittance Sector Register as a remittance affiliate of the applicant; and
- (7) the consent of a person proposed to be entered on the Remittance Sector Register as a remittance affiliate of the applicant.

*Note: The above does not affect the operation of Part VIIC of the Crimes Act 1914, which means that certain convictions that spent convictions are not required to be disclosed under the AML/CTF Rules and persons aware of such convictions must disregard them.*

reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99

## **Matters to be considered by the AUSTRAC CEO when deciding to cancel a registration**

58.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of paragraph 75G(1)(c) and subsection 75G(3) of that Act and in reliance on section 4 of the *Acts Interpretation Act 1901*.

58.2 Without limiting the matters to which the AUSTRAC CEO may have regard, the AUSTRAC CEO may have regard to the matters specified in the Schedule to this Chapter when deciding if it is appropriate to cancel the registration of a person under paragraph 75G(1)(c) of the AML/CTF Act.

*Note: Section 75Q of the AML/CTF Act requires that, except in urgent cases, the AUSTRAC CEO must provide a person with an opportunity to make a submission before any decision is taken to cancel their registration.*

58.3 The AUSTRAC CEO may publish on AUSTRAC's website, or in any manner which is considered appropriate, a list of the names of persons whose registration has been cancelled and the date the cancellation took effect.

58.4 In this Chapter:

- (1) 'beneficial owner' has the same meaning as in Chapter 2 of these AML/CTF Rules;
- (2) 'enforcement action' includes any action of a corrective or punitive nature in respect of an alleged breach of a law taken by a regulatory body of the Commonwealth or a State or Territory, or a government body;
- (3) 'fraud' means dishonestly obtaining a benefit by deception or other means;
- (4) 'key personnel' means:
  - (a) in the case of a company, corporation sole or body politic, is a natural person that is;
    - (i) a beneficial owner; or
    - (ii) an officer as defined in section 9 of the *Corporations Act 2001*, or an employee or agent of the body corporate with duties of such responsibility that his or her conduct may fairly be assumed to represent the body corporate policy;
  - (b) in the case of an individual, trust or partnership

natural person that is an employee or agent of the individual, trust or partnership with duties of such responsibility that his or her conduct may fairly be assumed to represent the policy of the individual, or partnership;

- (5) 'people smuggling' means conduct that amounts to:
- (a) an offence against Division 73 of the *Criminal Code*; or
  - (b) an offence against Subdivision A, Division 12, Part 2 of the *Migration Act 1958*; or
  - (c) an offence against a law of a foreign country or part of a foreign country that corresponds:
    - (i) to an offence referred to in paragraph (a) or
    - (ii) with the *Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime*;
- (6) 'person' has the same meaning as in the AML/CTF Act
- (7) 'serious offence' means an offence which is:
- (a) an offence against a law of the Commonwealth, law of a State or Territory, punishable on indictment by imprisonment for life or 2 or more years, that may be dealt with as an indictable offence (even if it may, in some circumstances, be dealt with as a summary offence) regardless of whether the offence proceeds summarily or on indictment; or
  - (b) an offence against a law of a foreign country constituted by conduct that, if it had occurred in Australia, would have constituted a serious offence

A 'serious offence' in relation to a person other than an individual means an offence which would have been a serious offence if the person had been an individual;

- (8) 'terrorism' means conduct that amounts to:
- (a) an offence against Division 101 or 102 of the *Criminal Code*; or
  - (b) an offence against a law of a State or Territory that corresponds to an offence referred to in paragraph (a); or
  - (c) an offence against a law of a foreign country or part of a foreign country that corresponds to an offence referred to in paragraph (a).

## **Schedule**

1. Whether the person or any of its key personnel:
  - (a) has been charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism, terrorism,

people smuggling, fraud, a serious offence, an offence under the AML/CTF Act, or an offence under the *Financial Transaction Reports Act 1988* (FTR Act);

(b) has been subject to a civil penalty order made under the AML/CTF Act;

(c) has been the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities, which was determined adversely to the person or any of its key personnel (including by the person or any of its key personnel consenting to an order or direction, or giving an undertaking, not to engage in unlawful or improper conduct and which reflected adversely on the person's competence, diligence, judgement, honesty or integrity;

and if so, the details of each instance as the case may be, for the person and each of its key personnel;

*Note: The above does not affect the operation of Part VIIC of the Crimes Act 1914, which means that certain convictions which spent convictions are not required to be disclosed under these AML/CTF Rules.*

2. If the person is a registered remittance affiliate, the original certified copy (as applicable) of the report of the most recent diligence assessment that has been carried out on the person by the registered remittance network provider who applied for registration of the person, to determine the suitability of the person to be a remittance affiliate of the registered remittance network provider.

3. Whether the following were not true and correct, or were materially misleading (whether by inclusion or omission), at the time the information or advice was provided:

(a) the information provided in any application for registration made under subsection 75B(1) or (2) of the AML/CTF Act;

(b) the information provided in any application for the renewal of registration made for the purposes of section 75J of the AML/CTF Act;

*Note: Chapter 70 of the AML/CTF Rules specifies the requirements for making an application for the renewal of registration on the Remittance Sector Register.*

(c) any advice to the AUSTRAC CEO given under paragraph 75M(1)(d) of the AML/CTF Act of any change in circumstances that could materially affect the person's registration;

(d) any advice to the AUSTRAC CEO given under the AML/CTF Rules made for the purposes of paragraph 75M(1)(e) of the AML/CTF Act;

(e) any advice to the AUSTRAC CEO given under subsection 75M(3) of the AML/CTF Act by a registered remittance network provider of changes notified to it by a registered remittance affiliate under subsection 75M(2) of the AML/CTF Act.

*Note: Chapter 60 of these AML/CTF Rules sets out the requirements for advising the AUSTRAC CEO of material changes of circumstances and other matters required by section 75M of the AML/CTF Act.*



AML/CTF Act.

4. Whether the person has contravened a provision of the AML Act or a requirement of the AML/CTF Rules, and if so, the details of each instance for the person including the nature, severity and frequency of the breach.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

### **Matters to be considered by the AUSTRAC CEO when deciding to suspend a registration**

59.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML Act) for the purposes of subsection 75H(1) of that Act and in reliance on section 4 of the *Acts Interpretation Act 1901*.

59.2 Subject to paragraphs 59.3, 59.4 and 59.5, the AUSTRAC CEO may suspend for a specified period of time the registration of a person with or without prior notice.

59.3 The AUSTRAC CEO may suspend a person's registration with or without prior written notice to the person where one or more grounds in paragraph 59.4 apply and the AUSTRAC CEO is satisfied that it is appropriate to do so.

*Note: A person whose registration has been suspended by the AUSTRAC CEO without prior notice may still apply for a review of this decision under paragraph 59.5(3) of these Rules.*

59.4 Without limiting the matters to which the AUSTRAC CEO may have regard, the AUSTRAC CEO may have regard to any of the following matters when deciding if it is appropriate to suspend the registration of a person under paragraph 59.2, with or without prior notice:

- (1) Whether the person or any of its key personnel:
  - (a) has been charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism, terrorism, people smuggling, fraud, a serious offence or an offence under the AML/CTF Act, or an offence under the *Financial Transaction Reports Act 1988* (FTR Act);
  - (b) has been the subject of a civil penalty order made under the AML/CTF Act;
  - (c) has been the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities which were determined adversely to the person or any of its key personnel (including by the person or any of its key personnel consenting to an order or direction or giving an undertaking, not to engage in unlawful

improper conduct) and which reflected adversely on the person's competence, diligence, judgement, honesty or integrity;  
and if so, the details of each instance as the case may be of the person and each of its key personnel;

*Note: The above does not affect the operation of Part VIIC of the Crimes Act 1914, which means that certain convictions which spent convictions are not required to be disclosed under these AML/CTF Rules.*

- (2) That the AUSTRAC CEO is satisfied on reasonable grounds that the person has contravened a civil penalty provision of the AML/CTF Act;
- (3) That the AUSTRAC CEO has decided that reasonable grounds exist on which to commence an action to cancel the registration of the person under section 75G of the AML/CTF Act, and that action has not been completed;
- (4) That the AUSTRAC CEO is satisfied on reasonable grounds that the person has contravened:
  - (a) a condition imposed on the registration of a person under subsection 75E(1) of the AML/CTF Act; or
  - (b) a provision of the AML/CTF Act or a requirement of the AML/CTF Rules;
- (5) That the AUSTRAC CEO suspects on reasonable grounds that the person may contravene a provision of the AML/CTF Act;
- (6) That the AUSTRAC CEO reasonably believes that information or advice provided under any of the following was not true and correct, or was materially misleading (whether by inclusion or omission), at the time the information or advice was provided:
  - (a) information provided in any application for registration made under subsection 75B(1) or (2) of the AML/CTF Act;
  - (b) information provided in any application for the renewal of registration made for the purposes of section 75J of the AML/CTF Act;

*Note: Chapter 70 of the AML/CTF Rules specifies the requirements for making an application for the renewal of registration on the Remittance Sector Register.*

- (c) advice to the AUSTRAC CEO given under paragraph 75M(1)(d) of the AML/CTF Act of any change in circumstances that could materially affect the person's registration;
- (d) advice to the AUSTRAC CEO given under the AML/CTF Rules made for the purposes of paragraph 75M(1)(e) of the AML/CTF Act;
- (e) advice to the AUSTRAC CEO given under subsection 75M(3) of the AML/CTF Act by a registered remittance network provider of changes notified to the provider by a registered remittance affiliate of that provider under subsection 75M(2) of the AML/CTF Act.

*Note: Chapter 60 of the AML/CTF Rules sets out the requirements for advising the AUSTRAC CEO of material changes of circumstances and other matters required by section 75M of the AML/CTF Act.*

- (7) That the AUSTRAC CEO is satisfied on reasonable grounds that the continued registration of the person involves, or

may involve a significant money laundering, financing of terrorism or people smuggling risk.

*Note: The conduct of the person and any of its key personnel may be relevant in assessing the money laundering, financing of terrorism or people smuggling risk of allowing the continued registration of the person.*

59.5 If the AUSTRAC CEO decides that the registration of a person is to be suspended:

- (1) the AUSTRAC CEO must within 7 days give written notice of the suspension to:
  - (a) the person; and
  - (b) if the person is a registered remittance affiliate of a remittance network provider, to that registered remittance network provider;
- (2) the notice given under paragraph 59.5(1) must:
  - (a) set out the grounds on which the decision was made;
  - (b) specify the period of suspension;
  - (c) specify the date on which the suspension will commence;
  - (d) specify when the suspension will cease;
  - (e) include a statement that the suspension may be reviewed if the AUSTRAC CEO becomes aware of material information relevant to the grounds as specified under subparagraph 59.5(2)(a); and
  - (f) include a statement setting out particulars of the person's right to have the decision reviewed;
- (3) A person whose registration is suspended may apply to the AUSTRAC CEO for review of the decision;
- (4) An application for review must:
  - (a) be in writing; and
  - (b) be in the approved form; and
  - (c) set out the reasons why the decision should be reviewed; and
  - (d) be given to the AUSTRAC CEO within 14 days after the receipt of the notice given under paragraph 59.5(1).

59.6 A suspension made under paragraph 59.2 cannot commence prior to the date specified in subparagraph 59.5(2)(c).

59.7 The AUSTRAC CEO may publish the notice of suspension or extracts from that notice, on AUSTRAC's website or in any manner which is considered appropriate.

59.8 The AUSTRAC CEO may, in writing, inform a registered remittance affiliate of the suspension of a registered remittance network provider.

59.9 The AUSTRAC CEO may remove the entry relating to one or more of the registrations of the person from the Remittance S Register, for the period that the registration is suspended.

59.10 A reference in this Chapter to a person or any key personnel the person who have been convicted of an offence includes a reference to a person in respect of whom an order has been made under section 19B of the *Crimes Act 1914*, or under a corresponding provision of a law of a State, a Territory or a foreign country, in relation to the offence.

59.11 In this Chapter:

- (1) 'beneficial owner' has the same meaning as in Chapter 2 of these AML/CTF Rules;
- (2) 'enforcement action' includes any action of a corrective or punitive nature in respect of an alleged breach of a law taken by a regulatory body of the Commonwealth or a State or Territory, or a government body;
- (3) 'fraud' means dishonestly obtaining a benefit by deception or other means;
- (4) 'key personnel' means:
  - (a) in the case of a company, corporation sole or body politic, is a natural person that is:
    - (i) a beneficial owner; or
    - (ii) an officer as defined in section 9 of the *Corporations Act 2001*, or an employee or agent of the body corporate with duties of such responsibility that his or her conduct may fairly be assumed to represent the body corporate policy;
  - (b) in the case of an individual, trust or partnership, is a natural person that is an employee or agent of the individual, trust or partnership with duties of such responsibility that his or her conduct may fairly be assumed to represent the policy of the individual, trust or partnership;
- (5) 'people smuggling' means conduct that amounts to:
  - (a) an offence against Division 73 of the *Criminal Code Act 1995*; or
  - (b) an offence against Subdivision A, Division 12, Part 2 of the *Migration Act 1958*; or
  - (c) an offence against a law of a foreign country or part of a foreign country that corresponds:
    - (i) to an offence referred to in paragraph (a) or (b); or
    - (ii) with the *Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime*;
- (6) 'person' has the same meaning as in the AML/CTF Act.

(7) 'serious offence' means an offence which is:

- (a) an offence against a law of the Commonwealth, law of a State or Territory, punishable on indictment by imprisonment for life or 2 or more years, that may be dealt with as an indictable offence (even if it may, in some circumstances, be dealt with as a summary offence) regardless of whether the offence proceeds summarily or on indictment; or
- (b) an offence against a law of a foreign country constituted by conduct that, if it had occurred in Australia, would have constituted a serious offence.

A 'serious offence' in relation to a person other than an individual means an offence which would have been a serious offence if the person had been an individual;

(8) 'terrorism' means conduct that amounts to:

- (a) an offence against Division 101 or 102 of the *Criminal Code*; or
- (b) an offence against a law of a State or Territory that corresponds to an offence referred to in paragraph (a); or
- (c) an offence against a law of a foreign country or a part of a foreign country that corresponds to an offence referred to in paragraph (a).

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to the [OAIC website](#) or call 1300 363 992.*

## **Change in registration details regarding person**

60.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of paragraphs 75M(1)(e) and (2)(b) and subsection 75(4) of that Act and in reliance on section 4 of the *Acts Interpretation Act 1901*. Sections 136 and 137 of the AML/CTF Act apply to each paragraph in this Chapter.

*Person registered as a remittance network provider, an independent remittance dealer or a remittance affiliate of a registered remittance network provider that applied for registration on its own behalf*

60.2 For the purpose of paragraph 75M(1)(e) of the AML/CTF Act the following matters are specified:

- (1) a material change in any of the registration details of a person as set out in Part A of Schedules 1, 2 and 3 of

person as set out in Part A of Schedules 1, 2 and 3 of Chapter 56 of these AML/CTF Rules, as the case may be including:

- (a) any change to the registration details of the key personnel of the person, including:
  - (i) any change in the number of key personnel;
  - (ii) in situations where new key personnel have been appointed or commenced since the registration of the person on the Remittance Sector Register, a declaration by the person:
    - (A) a National Police Certificate (NPC) or National Police History Check (NPHC) has been obtained, or an application has been made for a NPC or NPHC, for the new personnel;
    - (B) the person has obtained, or will, obtain and retain the information specified in Schedule to this Chapter; and
    - (C) each of the key personnel of the person has been subject to, and satisfied, the employee due diligence program of the person;
- (b) whether the person or any of its key personnel:
  - (i) has been charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism, terrorism, people smuggling, fraud or a serious offence, an offence under the AML/CTF Act, or an offence under the *Financial Transaction Reports Act 1988* (FTR Act);
  - (ii) has been the subject of a civil penalty order made under the AML/CTF Act;
  - (iii) has been the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities, which were determined adversely to the person or any of its key personnel (including by the person or any of its key personnel consenting to an order or direction, or giving an undertaking, not to engage in unlawful or improper conduct) and which reflected adversely on the person's competence, diligence, judgement, honesty or integrity;

and if so, the details of each instance as the case may be of the person and each of its key personnel;

- (c) whether the person has become a subsidiary of another entity;
- (d) if the person was, when registered, a subsidiary of another entity, whether the person has become a subsidiary of a different entity;
- (e) whether the person is now controlled by another

- (e) whether the person is now controlled by another entity;
- (f) if the person was, when registered, controlled by another entity, whether the person is now controlled by a different entity;
- (g) if the person is a company – the deregistration of the company by the Australian Securities and Investments Commission;
- (h) if the person is a trust:
  - (i) information that the trust has been dissolved or
  - (ii) any change to the identity or registration details of the trustees, including any change in the number of trustees;
- (i) if the person is a partnership:
  - (i) information that the partnership has been dissolved; or
  - (ii) any change to the registration details of the current partners, including any change in the number of partners;
- (j) if the person is an individual – information that the individual is deceased;
- (k) if the person is an unincorporated association – information that the association has ceased to exist;
- (l) if the person is an incorporated association – information that the association has ceased to exist;
- (m) if the person is a registered co-operative – information that the co-operative has ceased to exist;
- (n) information that two or more persons whose names and registration details as currently on the Remittance Sector Register have merged or amalgamated, an merged or amalgamated entity has commenced, or continued, to provide a designated service;
- (o) that the person no longer provides a designated service.

60.3 Advice in regard to a material change relating to the person's registration details may be made by a person (the requestor) who is not the person or an agent of the person, if:

- (1) the request provides evidence of the requestor's authority to make that request, to the satisfaction of the AUSTRAC CEO, and
- (2) the person is an individual who is deceased, or
- (3) the person is a corporate body which has ceased to exist or
- (4) the person is an individual who no longer has capacity to manage their affairs.

60.4 For the purpose of paragraph 75M(2)(b) of the AML/CTF Act the following matters are specified:

- (1) a material change in any of the registration details of the person as set out in Part A of Schedule 2 in Chapter 56 of these AML/CTF Rules, including:
  - (a) any change to the registration details of the key personnel of the person, including:
    - (i) any change in the number of key personnel;
    - (ii) in situations where new key personnel have been appointed or commenced since the registration of the person on the Remittance Sector Register, a declaration by the person:
      - (A) a National Police Certificate (NPC) or National Police History Check (NPHC) has been obtained, or an application has been made for a NPC or NPHC, for the new personnel;
      - (B) the person has obtained, or will, obtain and retain the information specified in Schedule 2 to this Chapter; and
      - (C) each of the key personnel of the person has been subject to, and satisfied, the employee due diligence program of the person;
  - (b) whether the person or any of its key personnel:
    - (i) has been charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism, terrorism, people smuggling, fraud or a serious offence, an offence under the AML/CTF Act, or an offence under the FTR Act;
    - (ii) has been the subject of a civil penalty order made under the AML/CTF Act;
    - (iii) has been the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities, which were determined adversely to the person or any of its key personnel (including by the person or any of its key personnel consenting to an order or direction, or giving an undertaking, not to engage in unlawful or improper conduct) and which reflected adversely on the person's competence, diligence, judgement, honesty or integrity;and if so, the details of each instance as the case may be, for the person and each of its key personnel;
- (c) whether the person has become a subsidiary of another entity;



- (d) if the person was, when registered, a subsidiary entity, whether the person has become a subsidiary of a different entity;
- (e) whether the person is now controlled by an entity;
- (f) if the person was, when registered, controlled by an entity, whether the person is now controlled by a different entity;
- (g) if the person is a company – the deregistration of the company by the Australian Securities and Investments Commission;
- (h) if the person is a trust:
  - (i) information that the trust has been dissolved; or
  - (ii) any change to the registration details of the current trustees, including any change in the number of trustees;
- (i) if the person is a partnership:
  - (i) information that the partnership has been dissolved; or
  - (ii) any change to the registration details of the current partners, including any change in the number of partners;
- (j) if the person is an individual – information that the individual is deceased;
- (k) if the person is an unincorporated association – information that the association has ceased to exist;
- (l) if the person is an incorporated association – information that the association has ceased to exist;
- (m) if the person is a registered co-operative – information that the co-operative has ceased to exist;
- (n) information that two or more persons whose names and registration details as currently on the Remittance Sector Register have merged or amalgamated, and the merged or amalgamated entity has commenced, or continued, to provide a designated service;
- (o) that the person no longer provides a designated service.

60.5 Advice in regard to a material change relating to the person whose registration details may be made by a person (the requestor) who is not the person or an agent of the person, if:

- (1) the request provides evidence of the requestor's authority to make that request, to the satisfaction of the AUSTRAC CEO, and
- (2) the person is an individual who is deceased, or
- (3) the person is a corporate body which has ceased to exist or

- (4) the person is an individual who no longer has capacity manage their affairs.

60.6 To avoid doubt, these AML/CTF Rules do not affect the operation of Part VIIC of the *Crimes Act 1914*, including the application of Part VIIC to disclosable convictions.

*Note: This means that certain convictions which are spent convictions are not required to be disclosed under these AML/CTF Rules.*

60.7 In this Chapter:

- (1) 'accredited agency' means an agency approved by the Australian Crime Commission to access the National Police Checking Service;

*Note: In 2016, the list of accredited agencies as specified by the Australian Crime Commission was available on the Australian Crime Commission website ([www.acic.gov.au](http://www.acic.gov.au)).*

- (2) 'Australian Police Force' means ACT Policing, the Australian Federal Police, the New South Wales Police Service, the Northern Territory Police, the Queensland Police Service, the Victoria Police, the South Australia Police, the Tasmania Police Service and the Western Australia Police;

- (3) 'beneficial owner' has the same meaning as in Chapter 2 of these AML/CTF Rules;

- (4) 'company' has the same meaning as in the *Corporations Act 2001*;

- (5) 'control' has the meaning given by section 50AA of the *Corporations Act 2001*;

- (6) 'Australian Crime Commission' means the agency which, in addition to its other functions, provides systems and services relating to national policing information, including the provision of nationally coordinated criminal history checks;

- (7) 'disclosable convictions' means a conviction that:

- (a) has been recorded by a court; and  
(b) has not been spent under the laws of the country in which the conviction was recorded;

- (8) 'enforcement action' includes any action of a corrective or punitive nature in respect of an alleged breach of a law taken by a regulatory body of the Commonwealth or a State or Territory, or a government body;

- (9) 'entity' has the same meaning as in the *Corporations Act 2001*;

- (10) 'fraud' means dishonestly obtaining a benefit by deception or other means;

- (11) 'key personnel':

- (a) in the case of a company, corporation sole or body politic, is a natural person that is:

- (i) a beneficial owner; or

- (ii) an officer as defined in section 9 of the *Corporations Act 2001*, or an employee or agent of the body corporate with duties of such responsibility that his or her conduct may fairly be assumed to represent the body corporate policy;
- (b) in the case of an individual, trust or partnership natural person that is an employee or agent of the individual, trust or partnership with duties of such responsibility that his or her conduct may fairly be assumed to represent the policy of the individual, trust or partnership;
- (12) 'National Police Certificate' means a document that contains a certification, effective on a national basis, that a natural person to whom it relates either has no disclosable convictions or has a disclosable conviction that is detailed in the Certificate; and
  - (a) if the natural person to whom it relates is a resident of Australia, is issued by an Australian police force;
  - (b) if the natural person to whom it relates is a resident of another country, is issued by a police force of that other country;
- (13) 'National Police Checking Service Support System' means the information database administered by the Australian Crime Commission which supports the process of national police history checking;
- (14) 'National Police History Check' means a police history record check carried out by the Australian Crime Commission within Australia through the National Police Checking Service and provided to an accredited agency which contains the information specified in subparagraph 1(b) of Part B of Schedules 1, 2 and 3 of Chapter 56;
- (15) 'people smuggling' means conduct that amounts to:
  - (a) an offence against Division 73 of the *Criminal Code* or
  - (b) an offence against Subdivision A, Division 12, Part 2 of the *Migration Act 1958*; or
  - (c) an offence against a law of a foreign country or a part of a foreign country that corresponds:
    - (i) to an offence referred to in paragraph (a) or (b); or
    - (ii) with the *Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime*;
- (16) 'person' has the same meaning as in the AML/CTF Act;
- (17) 'reference number' means an identifier (including an Organisation Registration Number supplied by the Australian Crime Commission) allocated by an accredited

agency to the National Police History Check request, and identifies the search results obtained by that agency from the National Police Checking Service Support System;

(18) 'serious offence' means an offence which is:

- (a) an offence against a law of the Commonwealth, or a law of a State or Territory, punishable on indictment by imprisonment for life or 2 or more years, that may be dealt with as an indictable offence (even if it may, in some circumstances, be dealt with as a summary offence) regardless of whether the offence proceeded summarily or on indictment; or
- (b) an offence against a law of a foreign country constituted by conduct that, if it had occurred in Australia, would have constituted a serious offence.

A 'serious offence' in relation to a person other than an individual means an offence which would have been a serious offence if the person had been an individual;

(19) 'subsidiary' has the same meaning as in the *Corporations Act 2001*.

(20) 'terrorism' means conduct that amounts to:

- (a) an offence against Division 101 or 102 of the *Criminal Code*; or
- (b) an offence against a law of a State or Territory that corresponds to an offence referred to in paragraph (a); or
- (c) an offence against a law of a foreign country or part of a foreign country that corresponds to an offence referred to in paragraph (a).

### **Schedule**

#### **Information to be obtained and retained pursuant to subsection 75(4) of the AML/CTF Act**

1. For all key personnel who either are appointed or commence employment after the date of registration of a person on the Remittance Service Register, the registered person must obtain and retain:
  - (a) the original or certified copy (as applicable) of a National Police Certificate (or foreign equivalent if one is able to be obtained) (NPC); or
  - (b) a National Police History Check (NPHC) which:
    - (i) has been obtained from an accredited agency;
    - (ii) specifies the full name and date of birth of the natural person to whom the NPHC relates;
    - (iii) provides relevant information regarding the natural person to whom the NPHC relates, which will enable the applicant to make an informed decision as to whether that natural person has any disclosable convictions arising from any court outcomes within Australia which are disclosable;

- (iv) specifies the reference number allocated to the NPHC by the accredited agency;
- (v) specifies the name of the accredited agency which obtained the NPHC; and
- (vi) specifies the date on which the NPHC was released.

*Note 1: Subsection 6E(1A) of the Privacy Act 1988 applies the Australian Privacy Principles to all reporting entities in relation to their activities under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006.*

*Note 2: A reporting entity intending to disclose a NPHC or information from it to AUSTRAC should ensure that it complies with any requirements of the Australian Crime Commission in regard to that disclosure.*

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Reporting obligations of remittance affiliates**

61.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purpose of items 50(1) and 50(2) of Part 2 of Schedule 1 of the *Combating the Financing of People Smuggling and Organised Crime Measures Act 2011*.

61.2 An obligation imposed by subsection 43(2) or 45(2) of the AML/CTF Act upon a remittance affiliate of a remittance network provider to give a report to the AUSTRAC CEO is taken instead to be an obligation imposed upon, and must be discharged by, the remittance network provider.

61.3 If a suspicious matter reporting obligation imposed by subsection 41(1) of the AML/CTF Act upon a remittance affiliate of a remittance network provider arises, that obligation may be met by the remittance network provider under a written agreement in place between the remittance affiliate and the remittance network provider.

61.4 In this Chapter:

- (1) 'remittance affiliate' means a reporting entity:
  - (a) that provides a designated service covered by item 31 or 32 of table 1 in section 6 of the AML/CTF Act; and
  - (b) provides that service as part of a network of providers referred to in item 32A of that table operated by a remittance network provider;

- (2) 'remittance network provider' means a reporting entity that provides a designated service covered by item 32A of table 1 in section 6 of the AML/CTF Act.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

## Reporting Entities Roll

62.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of subsection 51C(4) of that Act and in reliance on section 4 of the *Acts Interpretation Act 1901*. The Rules come into effect on the date that section 51C of the AML/CTF Act comes into effect.

62.2 If the AUSTRAC CEO considers on reasonable grounds that an entry on the Reporting Entities Roll (the Roll) is incorrect or incomplete, the AUSTRAC CEO may correct, or make complete, the entry.

62.3 (1) If the AUSTRAC CEO corrects or makes complete a person's

name and enrolment details on the Roll, the AUSTRAC CEO must, (if possible), give a written notice to the person; and

(2) The notice must set out:

(a) the changes to the entry that the AUSTRAC CEO made; and

(b) the date on which the changes were made.

62.4 If the AUSTRAC CEO considers on reasonable grounds that a person no longer provides a designated service, the AUSTRAC CEO may remove the person's name and enrolment details from the Roll.

62.5 For the purposes of paragraph 62.4, the matters that may be considered by the AUSTRAC CEO when forming an opinion include:

(1) a change in any of the person's enrolment details set out in Part A of Schedule 1 of Chapter 63;

(2) if the person is a company – the deregistration of the company by the Australian Securities and Investments Commission;

(3) if the person is a trust – information that the trust has dissolved;

(4) if the person is a partnership – information that the partnership has been dissolved;

- (5) if the person is an individual – information that the individual is deceased;
- (6) if the person is an unincorporated association – information that the association has ceased to exist;
- (7) if the person is an incorporated association – information that the association has ceased to exist;
- (8) if the person is a registered co-operative – information that the co-operative has ceased to exist;
- (9) if the person is a government body – information that the government body has ceased to exist;
- (10) information that two or more persons whose names and enrolment details are currently on the Roll have merged or amalgamated, and the merged or amalgamated entity has commenced, or has continued, to provide a designated service;
- (11) information that the person no longer provides a designated service; or
- (12) any other information that the AUSTRAC CEO considers relevant to whether the person continues to provide a designated service or has changed its legal structure to an extent that names and enrolment details should be removed.

62.6 (1) If the AUSTRAC CEO has formed the opinion that the person no longer provides a designated service and has removed the person's name and enrolment details, the AUSTRAC CEO must (if possible) give a written notice to the person, or in the case of a deceased individual, the administrator of that individual's estate.

- (2) The notice must set out:
  - (a) the reason for the removal by the AUSTRAC CEO and
  - (b) the date on which the person's name and enrolment details were removed from the Roll.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

### **Information to be provided or in relation to an application for enrolment as a reporting entity**

63.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of subsection 51C(4) and paragraph 51F(2)(b) of that Act.

63.2 The enrolment details, in relation to a person, are the detail required to be provided as set out in Part A of the Schedule to this Chapter.

63.3 A person making an application for enrolment as a reporting entity must:

- (1) provide in their application the information set out in Part A of the Schedule to this Chapter;
- (2) obtain and retain the information set out in Part B of the Schedule to this Chapter; and
- (3) include in their application a declaration made by the authorised individual that the information in the Schedule to this Chapter is true, accurate and complete.

63.4 An application for enrolment as a reporting entity may be made by an agent of the person on behalf of the person, only if:

- (1) there is a current written agreement in place between the agent of the person and the person; or the person has provided to the agent of the person a written authority;
- (2) that written agreement or written authority authorise the agent to make an application for enrolment on behalf of the person;
- (3) the application of the agent on behalf of the person contains the information set out in Part A of the Schedule to this Chapter;
- (4) the agent has obtained and retained the information set out in Part B of the Schedule to this Chapter; and
- (5) the application includes a declaration by the agent that the information in the Schedule to this Chapter is true, accurate and complete.

63.5 In this Chapter:

- (1) 'ADI' (short for authorised deposit-taking institution) has the same meaning as in the AML/CTF Act;
- (2) 'annual financial statements' means:
  - (a) if the person has an obligation under Part 2M.3 of the *Corporations Act 2001*:
    - (i) the financial report (or foreign equivalent) for the most recent financial year before the census day;
  - (b) if the person does not have an obligation under Part 2M.3 of the *Corporations Act 2001*:
    - (i) those consolidated documents which are used to calculate the EBITDA for the most recent financial year before the census day;
- (3) 'Australian Government Entity' means:
  - (a) the Commonwealth, a State or a Territory; or
  - (b) an agency or authority of:



- (i) the Commonwealth; or
- (ii) a State; or
- (iii) a Territory; or
- (c) a local governing body established by or under a law of the Commonwealth, a State or Territory, other than a body whose sole or principal function is to provide a particular service, such as the supply of electricity or water;
- (4) 'authorised individual' means a natural person who is
  - (a) a beneficial owner;
  - (b) an officer as defined in section 9 of the *Corporations Act 2001*;
  - (c) an agent of the person;
  - (d) a nominee pursuant to subsection 8(2) of the *Australian Transaction Reports and Analysis Centre Industry Contribution (Collection) Act 2011* who has been authorised in writing by the person to act on their behalf as a nominee; or
  - (e) an employee of the person who has been authorised in writing by the person to act on their behalf;
- (5) 'beneficial owner' has the same meaning as in Chapter 2 of these AML/CTF Rules;
- (6) 'company' has the same meaning as in the *Corporations Act 2001*;
- (7) 'consolidated documents' means those documents which contain financial information relating to the calculation of earnings;
- (8) 'earnings', in relation to a leviable entity, means:
  - (a) if the leviable entity is an ADI or a registered financial corporation – the total profit before tax, depreciation and amortisation (PBTDA), not adjusted for significant items; or
  - (b) if the leviable entity is a member of a group of leviable entities and any member of that group is an ADI or a registered financial corporation – PBTDA adjusted for significant items; or
  - (c) in any other case – the total earnings before tax, interest, depreciation and amortisation (EBITDA), adjusted for significant items;

of the leviable entity, for a year ending in the previous financial year, the details of which have been recorded in accordance with the requirements for the roll maintained by the AUSTRAC CEO under section 51C of the AML/CTF Act;

*Note: The above definition recognises that leviable entities may have annual accounting periods that end on a date other than 30 June in any year.*

- (9) 'financial report' has the same meaning as in section 9 of the *Corporations Act 2001*;
- (10) 'foreign company' has the same meaning as in the *Corporations Act 2001*;

- (11) 'group of leviable entities' means all leviable entities that are related bodies corporate;
- (12) 'instalment of levy' means an amount of levy imposed by a determination under subsection 9(1) of the *Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011*;
- (13) 'leviable entity', in relation to the financial year, has the same meaning as in the *Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011*;
- (14) 'person' has the same meaning as in the AML/CTF Act;
- (15) 'previous financial year' means the financial year beginning on 1 July of the financial year immediately preceding the census day;
- (16) 'registered financial corporation' has the same meaning as 'registered entity' in the *Financial Sector (Collection of Data) Act 2001*;
- (17) 'related bodies corporate' has the same meaning as in the *Corporations Act 2001*;
- (18) 'significant items' means a revenue or an expense from the ordinary activities of such size, nature or incidence that disclosure is relevant to the Australian Accounting Standards AASB 1018 (5.4);
- (19) 'subsidiary' has the same meaning as in the *Corporations Act 2001*;
- (20) 'ultimate holding company' has the same meaning as in the *Corporations Act 2001*.

63.6 In these Rules, the terms 'domestic company', 'registered company', 'operative', 'registered foreign company', 'relevant foreign company', 'registration body' and 'unregistered foreign company' have the same respective meanings as in Chapter 1 of the AML/CTF Rules.

## **Schedule - Information to be provided or relating to a person applying for enrolment**

### **Part A Enrolment details - the information to be provided by a person applying for enrolment pursuant to section 51E of the AML/CTF Act**

1. The name of the person;
2. The business name(s) under which the person is carrying on a business, or proposes to carry on a business, or providing a designated service;
3. A description of whether the person is operating as an individual, company, partnership, trust or through any other legal structure;
4. A description of whether the person:
  - (a) provides a designated service at or through a permanent establishment in Australia;

- (b) is a resident of Australia and the designated service is provided at or through a permanent establishment of the person in a foreign country; or
  - (c) is a subsidiary of a company that is a resident of Australia and the designated service is provided at or through a permanent establishment of the person in a foreign country;
- 5. The designated service or services which the person provides or proposes to provide;
- 6. The date on which the person commenced to provide or proposes to provide, designated services;
- 7. A description of the business carried on by the person;
- 8. The address of the registered office of the person (if applicable);
- 9. The full street address of the person's principal place of business at which the person provides or proposes to provide a designated service, not being a branch of that person;
- 10. The postal address of the person (if applicable);
- 11. In regard to the registration of a business carrying on a business or proposing to carry on a business, of providing a designated service, the following, if applicable:
  - (a) the ACN;
  - (b) the ARBN;
  - (c) the ABN;
  - (d) the Australian financial services licence number;
  - (e) the Australian credit licence number;
  - (f) the foreign equivalent of the ACN, ABN, ARBN, AFSL or Australian credit licence number, together with the country in which the number was issued;
- 12. The person's telephone number at its principal place of business;
- 13. The person's facsimile number at its principal place of business (if applicable);
- 14. The person's email address at its principal place of business (if applicable);
- 15. The person's website address (if applicable);
- 16. The full name and business address (not being a post box address), and, where applicable, any business registration number(s) of:
  - (a) if the person is an individual – that individual;
  - (b) if the person comprises a partnership – the full name and business address (not being a post box address) of each partner of the partnership; or
  - (c) if the person is a trust – the name of each trustee;
- 17. If the person provides the item 31, 32 and 32A designated services in table 1 of subsection 6(2) of the AML/CTF Act, whether or not the person is a financial institution, the name of the person and the designated services provided;

the person provides those designated services as a:

- (a) remittance network provider;
- (b) an independent remittance dealer; or
- (c) a remittance affiliate of a registered remittance network provider;

18. Whether the person has any obligations under the *Financial Transaction Reports Act 1988*, and if so, the details of those obligations;

19. Whether the person is a related body corporate to a reporting entity;

20. If applicable, in respect of the ultimate holding company of the group of related bodies corporate of which the person is a member:

- (a) the name of the ultimate holding company;
- (b) the ACN;
- (c) the ARBN;
- (d) the ABN;
- (e) the Australian financial services licence number;
- (f) the Australian credit licence number;
- (g) the foreign equivalent of the ACN, ABN, ARBN, AFSL or Australian credit licence number, together with the country in which the number was issued;
- (h) the address (not being a post box address);

*Earnings information and the AUSTRAC Industry Contribution*

21. The earnings of the person for a year ending in the financial year immediately preceding the census day, if the circumstances described below apply:

*Note: If an earnings figure is required to be provided it may need to be updated each year as required by the AML/CTF Rules made under section 51F of the AML/CTF Act which deal with the requirement to update 'enrolment details'.*

*When earnings details have to be provided*

- (a) that entity is not part of a group of leviable entities and the entity has earnings equal to or greater than \$100,000,000; or
- (b) that entity is part of a group of leviable entities where the total earnings of the group of leviable entities is equal to or greater than \$100,000,000; or
- (c) that entity is a foreign company or a subsidiary of a foreign company and is not part of a group of leviable entities and the earnings of the entity derived from operations in Australia is equal to or greater than \$100,000,000; or
- (d) that entity is part of a group of leviable entities where two or more entities is a foreign company or a subsidiary of a foreign company ('foreign leviable entity') and the total

earnings of all of the foreign leviabie entities from oper  
in Australia is:

(i) equal to or greater than \$100,000,000;

or

(ii) (A) less than \$100,000,000; and

(B) the total earnings of the foreign leviabie er  
or entities from operation in Australia and th  
total earnings of all other leviabie entities in  
group is equal to or greater than \$100,000,0

comprising:

(e) where the person is an ADI or a Registered Financial  
Corporation, and is not a foreign company:

(i) the total profit before tax, depreciation and  
amortisation (PBTDA), not adjusted for significant  
items; or

(f) where the person is a member of a group of leviabie  
entities and any member of that group is an ADI or a  
Registered Financial Corporation, and the person is not  
foreign company:

(i) the PBTDA, not adjusted for significant items; or

(g) where the person is an ADI or a Registered Financial  
Corporation, and the person is a foreign company:

(i) the PBTDA, not adjusted for significant items de  
from its operations in Australia; or

(h) where the person is a member of a group of leviabie  
entities and any member of that group is an ADI or a  
Registered Financial Corporation, and the person is a fo  
company:

(i) the PBTDA, not adjusted for significant items de  
from its operations in Australia; or

(i) where the person is not an ADI or a Registered Financ  
Corporation, and is not a foreign company:

(i) the total earnings before tax, interest, depreciati  
and amortisation (EBITDA), not adjusted for signif  
items; or

(j) where the person is a member of a group of leviabie  
entities and none of the members is an ADI or a Registe  
Financial Corporation, and the person is not a foreign  
company:

(i) the EBITDA, not adjusted for significant items; c

(k) where the person is not an ADI or a Registered Financ  
Corporation, and is a foreign company:

(i) the EBITDA, not adjusted for significant items  
derived from its operations in Australia; or

(l) where the person is a member of a group of leviabie  
entities and none of the members is an ADI or a Registe

Financial Corporation, and the person is a foreign comp

- (i) the EBITDA, not adjusted for significant items derived from its operations in Australia;

22. The billing address of the person;

23. The business contact details of the AML/CTF Compliance Officer of the person, comprising:

- (a) full name;
- (b) position or title;
- (c) date of birth (optional);
- (d) telephone number;
- (e) facsimile number (if applicable);
- (f) email address; and
- (g) postal address;

24. The business contact details of the individual completing the application for enrolment, comprising:

- (a) full name;
- (b) position or title;
- (c) date of birth (optional);
- (d) telephone number;
- (e) facsimile number (if applicable);
- (f) email address; and
- (g) postal address;

25. The business contact details of the individual, if different from the AML/CTF Compliance Officer, relevant to matters relating to the levy, comprising:

- (a) full name;
- (b) position or title;
- (c) date of birth (optional);
- (d) telephone number;
- (e) facsimile number (if applicable);
- (f) email address; and
- (g) postal address;

26. Whether the person is exempt from Part 7 of the AML/CTF Act, full;

27. Whether the person has fewer than 5 employees.

28. Where the person is a remittance affiliate; and,

- (a) provided a designated service or services only in the capacity of a remittance affiliate; and

(b) did not provide a designated service in any other capacity;

that person is not required to provide the information in regard to an application for enrolment specified at,

(c) paragraphs 19, 20, 21, 22, 25, 26 and 27.

29. Where the person is exempt from Part 7 of the AML/CTF Act in full, that person is not required to provide the information in regard to an application for enrolment specified at,

(a) paragraphs 19, 20, 21, 22, 25, and 27.

**Part B Information to be obtained and retained by a person applying for enrolment pursuant to subsection 51C(4) of the AML/CTF Act**

1. The annual financial statements of the person relating to the most recent financial year before the census day, unless the person is:

(a) a remittance affiliate that provided a designated service only in the capacity of a remittance affiliate and not provide a designated service in any other capacity;

or

(b) a person exempt from Part 7 of the AML/CTF Act in full

*If the person is a company*

2. domestic company:

(a) if the company is registered as a proprietary company, the name of each director of the company;

3. registered foreign company:

(a) the country in which the company was formed, incorporated or registered;

(b) whether the company is registered by the relevant foreign registration body; and

(c) the name of each director of the company;

4. unregistered foreign company:

(a) the country in which the company was formed, incorporated or registered;

(b) whether the company is registered by the relevant foreign registration body; and if so:

(i) the full address of the company in its country of formation, incorporation or registration as registered and

(ii) the name of each director of the company;

(c) if the company is not registered by the relevant foreign

registration body, the full address of the principal place of business of the company in its country of formation or incorporation;

*If the person is an association (incorporated)*

5. (a) the full names of the office holders, including the chairman, secretary and treasurer or equivalent officer in each case of the association; and
- (b) the full names of any members of the governing committee (howsoever described);

*If the person is an association (unincorporated)*

6. (a) the full names of the office holders, including the chairman, secretary and treasurer or equivalent officer in each case of the association; and
- (b) the full names of any members of the governing committee (howsoever described);

*If the person is a registered co-operative*

7. the full names of the office holders, including the chairman, secretary or treasurer or equivalent officer in each case of the co-operative;

*If the person is a government body*

8. whether the government body is an Australian government entity;
9. whether the government body is established under legislation in a foreign country and the name of that country;

*For applications for enrolment made by an agent of the person*

10. the original or certified copy of the agreement or authority between the agent and the person for the duration of that agreement or authority.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Changes in enrolment details in respect of reporting entity**

- 64.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML Act) for the purposes of subsection 51F(1) of that Act and in reliance on section 4 of the *Acts Interpretation Act 1901*. The



Rules come into effect on the date that section 51F of the AML/CTF Act comes into effect.

64.2 For the purposes of subsection 51F(1) the following matters specified:

- (1) any change in any of the person's enrolment details set out in Part A of the Schedule to Chapter 63, including:
  - (a) if applicable, an updated annual earnings figure as soon as that becomes available;
  - (b) where two or more persons whose names and enrolment details are currently on the Roll have merged or amalgamated, and the merged or amalgamated entity has commenced, or has continued, to provide a designated service.

64.3 Notification of a change in the person's enrolment details may be made by an agent of the person on behalf of the person, only if:

- (1) there is a current written agreement in place between the agent of the person and the person, or the person has provided to the agent of the person a written authority;
- (2) that agreement or written authority authorises the agent to notify, on behalf of the person, a change in the enrolment details of the person on the Reporting Entities Roll; and
- (3) the notification of a change in a person's enrolment details includes a declaration by the agent that the information is true, accurate and complete.

64.4 A request for change of a person's enrolment details may be made by a person (the requestor) who is not the person or an agent of the person, if:

- (1) the request provides evidence of the requestor's authority to make that request, to the satisfaction of the AUSTRAC CEO, and
- (2) the person is a corporate body which has ceased to exist or
- (3) the person is an individual who no longer has capacity to manage their affairs.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Removal of entries from the Reporting Entities Roll**

65.1 These Anti-Money Laundering and Counter-Terrorism Financial Rules (Rules) are made under section 229 of the Anti-Money Laundering and Counter-Terrorism Financial Rules Act 2006.

rules (rules) are made under section 229 of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML Act) for the purposes of paragraph 51G(2)(b) of that Act.

65.2 A request made by a person to the AUSTRAC CEO to remove their name and enrolment details from the Reporting Entities must:

- (1) contain the information set out in the Schedule to this Chapter; and
- (2) include a declaration made by the authorised individual that the information in the Schedule of this Chapter is true, accurate and complete.

65.3 A request for removal from the Reporting Entities Roll may be made by an agent of the person on behalf of the person, only if:

- (1) there is a current written agreement in place between the agent of the person and the person, or the person has provided to the agent of the person a written authority;
- (2) that agreement or written authority authorises the agent to request, on behalf of the person, the removal of the person from the Reporting Entities Roll;
- (3) the request for removal by the agent contains the information set out in the Schedule to this Chapter; and
- (4) the request for removal includes a declaration by the authorised individual that the information is true, accurate and complete.

65.4 A request for change of a person's enrolment details may be made by a person (the requestor) who is not the person or an agent of the person, if:

- (1) the request provides evidence of the requestor's authority to make that request, to the satisfaction of the AUSTRAC CEO, and
- (2) the person is an individual who is deceased, or
- (3) the person is a corporate body which has ceased to exist; or
- (4) the person is an individual who no longer has capacity to manage their affairs; or
- (5) a request for change of a person's enrolment details may be made by a person (the requestor) who is not the person or an agent of the person, if:

- (1) the request provides evidence of the requestor's authority to make that request, to the satisfaction of the AUSTRAC CEO, and
- (2) the person is an individual who is deceased, or
- (3) the person is a corporate body which has ceased to exist; or
- (4) the person is an individual who no longer has capacity to manage their affairs.

65.5 In this Chapter:

- (1) 'authorised individual' means a natural person who is

(1) authorised individual means a natural person who is

- (a) a beneficial owner;
  - (b) an officer as defined in section 9 of the *Corporations Act 2001*;
  - (c) an agent of the person;
  - (d) a nominee pursuant to subsection 8(2) of the *Australian Transaction Reports and Analysis Centre Industry Contribution (Collection) Act 2011* who has been authorised in writing by the person to act on their behalf as a nominee; or
  - (e) an employee of the person who has been authorised in writing by the person to act on their behalf;
- (2) 'beneficial owner' has the same meaning as in Chapter 2 of these AML/CTF Rules;
- (3) 'company' has the same meaning as in the *Corporation Act 2001*;
- (4) 'person' has the same meaning as in the AML/CTF Act

**Schedule - Information to be provided in a request for removal from the Reporting Entities Roll**

1. The name of the person;
2. The business name(s) under which the person is carrying on business, or was carrying on a business, or providing a design service;
3. If applicable, the address of the principal place of business of the person;
4. If applicable, the postal address of the person;
5. If applicable:
  - (a) the ACN;
  - (b) the ARBN;
  - (c) the ABN;
  - (d) the Australian financial services licence number;
  - (e) the Australian credit licence number;
  - (f) any other unique identifying number relevant to the registration of the business, including any that relate to the business or trading name; not included in subparagraph (e) above;
  - (g) any number relevant to the person which has been allocated by AUSTRAC in regard to the person's enrolment on the Reporting Entities Roll;
6. The person's telephone number at its principal place of business;

7. The person's facsimile number at its principal place of business (if applicable);
8. The person's email address at its principal place of business (if applicable);
9. The date of the application requesting removal from the Reporting Entities Roll;
10. A statement that the person requests the AUSTRAC CEO to remove their name and enrolment details from the Reporting Entities Roll;
11. The date on which the person requests their name and enrolment details to be removed from the Reporting Entities Roll, if different from the date of the application;
12. The person's reason for requesting their removal from the Reporting Entities Roll, for example:
  - (a) the person no longer provides a designated service;
  - (b) the person is an individual who is deceased;
  - (c) the person is a corporate body which has ceased to exist;
  - (d) two or more persons whose names and enrolment details are currently on the Reporting Entities Roll have merged or amalgamated, and the merged or amalgamated entity has commenced, or has continued, to provide a designated service.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

**Applicable customer identification  
procedures in certain circumstances  
relating to a compulsory partial or total transfer of  
business made under the *Financial  
Sector (Business Transfer and Group  
Restructure) Act 1999***

- 66.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules are made under section 229 for subsection 229(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
- 66.2 Subject to paragraphs 66.5 and 66.6, commencing on the day of a compulsory transfer of business, Division 4 of Part 2 of the AML/CTF Act does not apply to a designated service that is provided in the circumstances specified in paragraph 66.3.

66.3 The specified circumstances for the purposes of paragraph 66.2 are that:

- (1) a compulsory transfer of business from reporting entity one to reporting entity two has been effected; and
- (2) the designated service is provided to the transferring customer; and
- (3) the designated service is of a kind described in table 1 of subsection 6(2) of the AML/CTF Act; and
- (4) reporting entity two must commence an examination of reporting entity one as soon as practicable, whether before or after the compulsory transfer of business referred to in subparagraph 66.3(1), in order to determine on reasonable grounds:
  - (a) the ML/TF risk it faces in providing the designated service to the transferring customer or a group; and
  - (b) that it has in place appropriate risk based systems and controls to identify, manage and mitigate the ML/TF risk it faces in providing the designated service to the transferring customers as a group; and
  - (c) whether based on the assessed ML/TF risk and its risk-based systems and controls, it is reasonable for it to either:
    - (i) rely upon the applicable customer identification procedure of reporting entity one as an appropriate means to identify and verify the identity of a transferring customer; or
    - (ii) treat a transferring customer who was a pre-commencement customer of reporting entity one as if the customer was a pre-commencement customer of reporting entity two.

66.4 The exemption provided to reporting entity two by paragraph 66.2 will end 60 days after the compulsory transfer of business was effected, unless, prior to that time reporting entity two has concluded the examination required by subparagraph 66.3(4) and has determined in the affirmative the assessments required by subparagraphs 66.3(4)(b) and 66.3(4)(c).

66.5 Reporting entity two must, within 14 days after any of the circumstances specified in paragraph 66.6 come into existence, take one or more of the actions specified below:

- (1) carry out the applicable customer identification procedure, unless reporting entity two has previously carried out that procedure or a comparable procedure;
- (2) collect any KYC information in respect of the customer; or
- (3) verify, from a reliable and independent source, KYC information that has been obtained in respect of the

customer, as is appropriate to the ML/TF risk relevant to the provision of the designated service by reporting entity two;

for the purpose of enabling reporting entity two to be reasonably satisfied that the customer is the person that he or she claims to be.

66.6 For the purposes of paragraph 66.5 the following circumstances are specified:

- (1) a suspicious matter reporting obligation arises in relation to a transferring customer; or
- (2) reporting entity two reasonably suspects that reporting entity one did not carry out the applicable customer identification procedure when required; or
- (3) significant increases have occurred in the level of ML/TF risk as assessed under the AML/CTF program of reporting entity two, in relation to the provision of a designated service by reporting entity two to a transferring customer.

66.7 In this Chapter:

- (1) 'compulsory transfer of business' means the process by which all or part of the assets and liabilities of reporting entity one become the assets and liabilities of reporting entity two pursuant to the meaning given by Part 4 of the *Financial Sector (Business Transfer and Group Restructure) Act 1999*;
- (2) 'reporting entity one' means the reporting entity that partially or totally transfers business ;
- (3) 'reporting entity two' means the reporting entity that receives the business from reporting entity one;
- (4) 'transferring customer' means a customer who is a former customer of reporting entity one in relation to a designated service solely because of a compulsory transfer of business from reporting entity one to reporting entity two.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## Warrants

67.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 39(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

- 67.2 Division 4 of Part 2 of the AML/CTF Act does not apply to a warrant issuer providing a designated service in relation to a warrant that is of a kind described in item 46 of table 1 in subsection 6(2) of the AML/CTF Act in the circumstances specified in subparagraph 67.7(1).
- 67.3 Division 4 of Part 2 of the AML/CTF Act does not apply to a warrant issuer providing a designated service in relation to a warrant that is of a kind described in item 46 of table 1 in subsection 6(2) of the AML/CTF Act in the circumstances specified in subparagraph 67.7(2).
- 67.4 Division 4 of Part 2 of the AML/CTF Act does not apply to a warrant issuer providing a designated service in relation to a warrant that:
- (1) is of a kind described in item 35 of table 1 in subsection 6(2) of the AML/CTF Act; or
  - (2) is of a kind described in item 46 of table 1 in subsection 6(2) of the AML/CTF Act
- in the circumstances specified in subparagraph 67.7(3).
- 67.5 Division 4 of Part 2 of the AML/CTF Act does not apply to a warrant issuer providing a designated service that relates to a warrant that is of a kind described in item 46 of table 1 in subsection 6(2) of the AML/CTF Act in the circumstances specified in subparagraph 67.7(4).
- 67.6 Division 4 of Part 2 of the AML/CTF Act does not apply to a warrant issuer providing a designated service that relates to a warrant that:
- (1) is of a kind described in item 35 of table 1 in subsection 6(2) of the AML/CTF Act; or
  - (2) is of a kind described in item 46 of table 1 in subsection 6(2) of the AML/CTF Act;
- in the circumstances specified in subparagraph 67.7(5).
- 67.7 The specified circumstances for the purposes of paragraphs 67.3, 67.4, 67.5 and 67.6 are that the designated service is provided by a warrant issuer in relation to a warrant; and
- (1) a customer acquires a warrant on-market or off-market through the completion of a transfer; or
  - (2) after the circumstances in subparagraph 67.7(1) occur as a result of a corporate action in relation to the underlying asset, the warrant issuer sells the underlying asset; or
  - (3) after the circumstances in subparagraph 67.7(1) occur as a result of a corporate action in relation to the underlying asset, the warrant issuer issues a new warrant to the warrant holder; or
  - (4) after the circumstances in subparagraph 67.7(1) occur, the designated service is provided as a result of the roll-over or re-set of the warrant, when the warrant issuer sells the underlying asset; or
  - (5) after the circumstances in subparagraph 67.7(1) occur,

- (5) after the circumstances in subparagraph 67.7(1) occur, service is provided as a result of the expiry of a warrant when the warrant issuer issues a new warrant to the warrant holder.

67.8 In this Chapter:

- (1) 'corporate action' includes an assignment, conveyance, sale, or transfer of the whole or part of a business in relation to the underlying asset;
- (2) 'off-market' means where customers purchase warrants on their own behalf, rather than from warrant issuers, outside the prescribed financial market;
- (3) 'prescribed financial market' has the meaning given by section 9 of the *Corporations Act 2001*;
- (4) 'warrant' has the meaning set out in Regulation 1.0.0 of the *Corporations Regulations 2001*, when issued by a bank, government or other institution;
- (5) 'warrant holder' means the customer of the warrant issuer;
- (6) 'warrant issuer' means a person approved by a prescribed financial market to issue warrants.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

### **Anti-Money Laundering and Counter-Terrorism Financing Rules relating to records of identification procedures**

68.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 112(2) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

68.2 A record made under subsection 112(2) by a reporting entity, relevant to the applicable customer identification procedure and information obtained in the course of carrying out the applicable customer identification procedure, must be kept by the reporting entity in a form that enables the reporting entity:

- (1) to provide the record to an authorised officer within a reasonable period; and
- (2) to demonstrate to the authorised officer that the reporting entity has complied with the obligations under subsection 112(2).

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act.*



## **Casino licence holders - exemption from applying for registration on the Remittance Sector Register**

69.1 These Anti-Money Laundering and Counter-Terrorism Financial Rules (Rules) are made under section 229 for subsection 247(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

69.2 Subsections 74(1), 74(1A) and 74(1B) of the AML/CTF Act do not apply to the provision of a designated service set out in item 3 or item 32 or item 32A of table 1 in subsection 6(2) of the AML/CTF Act that are provided in the circumstances specified in paragraph 69.3.

69.3 The specified circumstances are:

- (1) the designated service specified in paragraph 69.2 is provided:
  - (a) only in conjunction with a designated service set out in table 3 in subsection 6(4) of the AML/CTF Act;
  - (b) the reporting entity is the holder of a casino licence and
  - (c) the designated services specified in paragraph 69.2 and subparagraph 69.3(1)(a) are provided in a case to which the casino licence relates.

69.4 In this Chapter:

- (1) 'holder of a casino licence' means a person who holds a casino licence or equivalent issued by one or more Australian State or Territory, which allows the casino licence holder to operate a casino under the legislation of the relevant Australian State or Territory.

*Note: The exemption from applying for registration does not exempt the reporting entity from any other obligation imposed by the AML/CTF Act, including the reporting obligations specified in section 3 of that Act.*

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

70.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of section 75J of that Act. Sections 136 and 137 of the AML/CTF Act apply to each paragraph of this Chapter.

## Application period

70.2 A reporting entity which is:

- (1)
  - (a) a registered remittance network provider; or
  - (b) a registered independent remittance dealer;
 may apply to the AUSTRAC CEO, within the 90 day period preceding the day on which their registration would otherwise cease, for a renewal of that registration;
- (2) a registered remittance network provider may apply to the AUSTRAC CEO, within the 90 day period preceding the day on which the registration of a registered remittance affiliate of the registered remittance network provider would cease, for a renewal of the registration of the registered remittance affiliate.

## Applications for renewal of registration

### *Remittance Network Provider*

70.3 An application for renewal of registration as a remittance network provider must be made by an authorised individual on behalf of the registered remittance network provider and contain a declaration that:

- (1) the registration details of the registered remittance network provider as they appear on the Remittance Service Register are correct and current at the time of the declaration;
- (2) the enrolment details of the registered remittance network provider as they appear on the Reporting Entities Roll are correct and current at the time of the declaration;
- (3) the remittance network provider has complied with the requirements of section 75M of the AML/CTF Act and the Schedule to Chapter 60 of the AML/CTF Rules;
- (4) the authorised individual has notified the AUSTRAC CEO as to whether the remittance network provider and any key personnel have been:
  - (a) charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism, terrorism people smuggling, fraud, a serious offence, an offence under the AML/CTF Act, or an offence under the *Financial Transaction Reports Act 1988* (FTR Act);
  - (b) subject of a civil penalty order made under the AML/CTF Act;
  - (c) the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities

which were determined adversely to the remittance network provider or any of its key personnel (including by the remittance network provider or any of its key personnel consenting to an order or direction, or giving an undertaking, not to engage in unlawful or improper conduct) and which reflected adversely on the competence, diligence, judgement, honesty or integrity of the remittance network provider or any of its key personnel;

- (5) the remittance network provider has complied with the requirements of subsection 75M(3) of the AML/CTF Act in respect to any remittance affiliate;
- (6) the information given in the declaration is true, accurate and complete; and
- (7) the applicant understands that criminal or civil penalties may apply for giving false or misleading information, or omitting any matter or thing without which the information is misleading.

#### *Independent Remittance Dealer*

70.4 An application for renewal of registration as an independent remittance dealer must be made by an authorised individual on behalf of the registered independent remittance dealer and contain a declaration that:

- (1) the registration details of the registered independent remittance dealer as they appear on the Remittance Services Register are correct and current at the time of the declaration;
- (2) the enrolment details of the registered independent remittance dealer as they appear on the Reporting Entities Roll are correct and current at the time of the declaration;
- (3) the independent remittance dealer has complied with the requirements of section 75M of the AML/CTF Act and the Schedule to Chapter 60 of the AML/CTF Rules;
- (4) the authorised individual has notified the AUSTRAC C as to whether the independent remittance dealer and any of its key personnel have been:
  - (a) charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism, terrorism people smuggling, fraud, a serious offence, an offence under the AML/CTF Act, or an offence under the *Financial Transaction Reports Act 1988* (FTR Act);
  - (b) subject of a civil penalty order made under the AML/CTF Act;
  - (c) the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities, which were determined adversely to the independent remittance dealer or any of its key personnel (including by the independent remittance dealer or any of its key personnel consenting to an order or direction, or giving an undertaking, not to engage

unlawful or improper conduct) and which reflected adversely on the competence, diligence, judgement, honesty or integrity of the independent remittance dealer or any of its key personnel;

- (5) the information given in the declaration is true, accurate and complete; and
- (6) the applicant understands that criminal or civil penalties may apply for giving false or misleading information, or omitting any matter or thing without which the information is misleading.

#### *Remittance Affiliate*

70.5 An application for renewal of the registration of a registered remittance affiliate of a registered remittance network provider must be made by an authorised individual of the registered remittance network provider and contain a declaration that:

- (1) the registration details of the registered remittance affiliate as they appear on the Remittance Sector Register are correct and current at the time of the declaration;
- (2) the enrolment details of the registered remittance affiliate as they appear on the Reporting Entities Roll are correct and current at the time of the declaration;
- (3) the remittance affiliate has complied with the requirements of section 75M of the AML/CTF Act and the Schedule to Chapter 60 of the AML/CTF Rules;
- (4) the authorised individual has notified the AUSTRAC C as to whether the remittance affiliate and any of its key personnel have been:
  - (a) charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism, terrorism people smuggling, fraud, a serious offence, an offence under the AML/CTF Act, or an offence under the *Financial Transaction Reports Act 1988* (FTR Act)
  - (b) subject of a civil penalty order made under the AML/CTF Act;
  - (c) the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities, which were determined adversely to the remittance affiliate or any of its key personnel (including by the remittance affiliate or any of its key personnel consenting to an order or direction, or giving an undertaking, not to engage in unlawful or improper conduct) and which reflected adversely on the competence, diligence, judgement, honesty or integrity of the remittance affiliate or any of its key personnel;
- (5) the remittance network provider has obtained consent from the remittance affiliate for it to be registered as a remittance affiliate of the remittance network provider;
- (6) the information given in the declaration is true, accurate and complete; and

- (7) the applicant understands that criminal or civil penalties may apply for giving false or misleading information, or omitting any matter or thing without which the information is misleading.

### **Provisional continuation of registration**

70.6 If an application has been made to the AUSTRAC CEO for the renewal of registration of a person:

- (1) within the application period specified in paragraph 70.3 and
- (2) the application contains the declarations required under paragraphs 70.3, 70.4 or 70.5, as applicable;

the registration of the person will continue in effect until the end of the following times:

- (3) where the AUSTRAC CEO has decided the application for renewal of registration of the person under paragraph 70.6 and has given written notice of the decision in accordance with paragraph 70.11 – the date on which the decision of the AUSTRAC CEO takes effect, as specified in this notice; or
- (4) where the AUSTRAC CEO or other delegated decision maker has reconsidered a decision not to renew the registration of a person under paragraph 70.18 and has given written notice of the reconsidered decision in accordance with paragraph 70.19 – the date on which the reconsidered decision takes effect, as specified in this notice.

### **Steps to be taken by the AUSTRAC CEO before making certain decisions**

70.7 Before making a decision under subparagraph 70.9(2) or paragraph 70.18 affirming that decision in relation to one or more persons, the AUSTRAC CEO must give a written notice to each of the persons containing:

- (1) the terms of the proposed decision; and
- (2) if the proposed decision is not to renew a registration, the date on which the decision is proposed to take effect; and
- (3) the reasons for the proposed decision; and
- (4) a statement that the person may, within 28 days of the giving of the notice, make a submission in relation to the proposed decision.

70.8 The AUSTRAC CEO is not required to give a notice for the purposes of paragraph 70.7 if the AUSTRAC CEO is satisfied that it is inappropriate to do so because of the urgency of the circumstances.

### **Determining application for the renewal of registration of a person**

70.9 The AUSTRAC CEO may decide to:

- (1) renew the registration of the person – with or without conditions pursuant to section 75E of the AML/CTF Act; or
- (2) not renew the registration of the person.

70.10 Notwithstanding paragraph 70.9, if an application has been made to the AUSTRAC CEO for the renewal of registration of person, the AUSTRAC CEO must renew the registration if the AUSTRAC CEO is satisfied that it is appropriate to do so, having regard to:

- (1) the declarations required, and any further information provided under paragraphs 70.3, 70.4 or 70.5, as applicable;
- (2) whether renewing the registration of the person would involve a significant money laundering, financing of terrorism, people smuggling or other serious crime risk;
- (3) the legal and beneficial ownership and control of the applicant, a remittance affiliate of the applicant, or any person;
- (4) the kinds of designated services provided by the applicant or by a remittance affiliate of the applicant;
- (5) the consent of a remittance affiliate of the applicant, if applicable; and
- (6) any other matter that the AUSTRAC CEO considers is relevant to the renewal of registration of the person.

**Notice of decision on renewal of registration**

70.11 The AUSTRAC CEO must, as soon as practicable after making a decision under paragraph 70.9, give written notice to the person of:

- (1) the decision to renew the person's registration in accordance with paragraph 70.9(1); or
- (2) the decision not to renew the person's registration in accordance with paragraph 70.9(2).

70.12 If the AUSTRAC CEO decides to renew the registration of a person, the notice of that decision must:

- (1) be given to:
  - (a) the person; and
  - (b) if the person is a remittance affiliate, the registered remittance network provider of that affiliate; and
- (2) contain the date the decision was made by the AUSTRAC CEO, the terms of the decision and the date the decision takes effect; and
- (3) if applicable, detail the conditions to which the renewal of registration is subject.

*Note: Section 75E of the AML/CTF Act allows the AUSTRAC CEO to impose conditions to which the registration of a person is subject.*

70.13 If the AUSTRAC CEO decides not to renew the registration of a person, the notice of that decision must:

- (1) be given to:
  - (a) the person; and
  - (b) if the person is a remittance affiliate, the registered

- (d) if the person is a remittance affiliate, the registered remittance network provider of that affiliate;

and contain:

- (2) the date the decision was made by the AUSTRAC CEO;
- (3) the terms of the decision;
- (4) the reasons for the decision;
- (5) the date which the registration of the person will cease to have effect; and
- (6) a statement setting out particulars of the person's right to have the decision reviewed.

#### **Period for which registration will be renewed**

70.14 If the AUSTRAC CEO decides to renew the registration of a person, the renewed registration will commence on the date of effect specified in the notice of the decision to renew the registration pursuant to paragraph 70.9(1), and will cease at the earliest of the following times:

- (1) three years after the date of effect specified in the notice or
- (2) if any of paragraphs 75F(1)(a), (b), (d) and (e) of the AML/CTF Act apply - the relevant earlier date determined in accordance with these paragraphs.

*Note: Paragraph 75J(2)(g) of the AML/CTF Act allows the AUSTRAC CEO to make AML/CTF Rules to specify the period for which renewed registrations have effect.*

#### **Review of decision to refuse renewal of registration**

70.15 A person affected by a decision of the AUSTRAC CEO under paragraph 70.9(2) of these AML/CTF Rules may, if dissatisfied with the decision, apply to the AUSTRAC CEO for the decision to be reconsidered.

70.16 The application for review must:

- (1) be in writing;
- (2) set out the reasons why the decision should be reviewed;
- (3) be made to the AUSTRAC CEO within:
  - (a) 30 days of the date of the decision of the AUSTRAC CEO made under paragraphs 70.9(2) and 70.18; or
  - (b) such longer period as the AUSTRAC CEO (whether before or after the end of the 30 day period) allows.

70.17 After receiving an application under paragraph 70.15, the AUSTRAC CEO must reconsider the decision personally or cause the decision to be reviewed by a delegate to whom the AUSTRAC CEO's power under section 222 of the AML/CTF Act is delegated (the person) who:

- (1) was not involved in making the decision; and
- (2) occupies a position in AUSTRAC that is senior to that occupied by any person involved in making the decision.

70.18 The person reviewing the decision must:

- (1) affirm, vary or revoke the decision; and
- (2) if the person revokes the decision, make such other decision (if any) as the person thinks appropriate.

70.19 The person must, as soon as practicable after making a decision under paragraph 70.18, give written notice to the applicant of:

- (1) the decision;
- (2) if the decision is to refuse a renewal of the person's registration – the date the decision takes effect; and
- (3) the reasons for the decision.

70.20 A failure to comply with the requirements of paragraph 70.19 (about giving notice) in relation to a decision to refuse a renewal of registration does not affect the validity of the decision.

### **Failure to apply for a renewal of registration**

70.21 If an application for a renewal of registration is not made within the appropriate application period specified in paragraph 70.19:

- (1) the registration of the person will cease at the end of current registration period; and
- (2) the AUSTRAC CEO will remove the person from the Remittance Sector Register in accordance with subsection 75K(3) – (6) of the AML/CTF Act, as applicable.

*Note: Under paragraphs 75F(1)(c) and 75J(3)(a) of the AML/CTF Act the current default registration period is 3 years from the day registration takes effect. There are currently no AML/CTF Rules which specify other registration periods.*

70.22 In this Chapter:

- (1) 'authorised individual' means a natural person who is
  - (a) a beneficial owner; or
  - (b) an officer as defined in section 9 of the *Corporations Act 2001*; or
  - (c) is an employee of the person registered on the Remittance Sector Register who has been authorised in writing by the registered person to act in this capacity;
- (2) 'beneficial owner' has the same meaning as in Chapter 2 of these AML/CTF Rules;
- (3) 'control' has the same meaning given by section 50AA of the *Corporations Act 2001*;
- (4) 'enforcement action' includes any action of a corrective or punitive nature in respect of an alleged breach of a law taken by a regulatory body of the Commonwealth or a State or Territory, or a government body;
- (5) 'fraud' means dishonestly obtaining a benefit by deception or other means;



- (6) 'key personnel' means:
- (a) in the case of a company, corporation sole or body politic, is a natural person that is:
    - (i) a beneficial owner; or
    - (ii) an officer as defined in section 9 of the *Corporations Act 2001*, or an employee or agent of the body corporate with duties of such responsibility that his or her conduct may fairly be assumed to represent the body corporate policy;
  - (b) in the case of an individual, trust or partnership, is a natural person that is an employee or agent of the individual, trust or partnership with duties of such responsibility that his or her conduct may fairly be assumed to represent the policy of the individual, trust or partnership;
- (7) 'people smuggling' means conduct that amounts to:
- (a) an offence against Division 73 of the *Criminal Code*; or
  - (b) an offence against Subdivision A, Division 12, Part 2 of the *Migration Act 1958*; or
  - (c) an offence against a law of a foreign country or part of a foreign country that corresponds:
    - (i) to an offence referred to in paragraph (a) or (b); or
    - (ii) with the *Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime*;
- (8) 'person' has the same meaning as in the AML/CTF Act
- (9) 'serious offence' means an offence which is:
- (a) an offence against a law of the Commonwealth, a law of a State or Territory, punishable on indictment by imprisonment for life or 2 or more years, that may be dealt with as an indictable offence (even if it may, in some circumstances, be dealt with as a summary offence) regardless of whether the offence proceeds summarily or on indictment; or
  - (b) an offence against a law of a foreign country constituted by conduct that, if it had occurred in Australia, would have constituted a serious offence.
- A 'serious offence' in relation to a person other than an individual means an offence which would have been a serious offence if the person had been an individual;
- (10) 'terrorism' means conduct that amounts to:
- (a) an offence against Division 101 or 102 of the *Criminal Code*; or
  - (b) an offence against a law of a State or Territory that

corresponds to an offence referred to in paragraph (a) or

- (c) an offence against a law of a foreign country or part of a foreign country that corresponds to an offence referred to in paragraph (a).

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 962.*

### **Credit card reform - specifying persons under Items 1, 2 and 3 of Table 1 in subsection 6(2) of the AML/CTF Act**

71.1 These Anti-Money Laundering and Counter-Terrorism Financial Rules (Rules) are made pursuant to section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of paragraph (e) of Items 1, 2 and 3 in Table 1 of subsection 6(2) of that Act.

71.2 For the purposes of paragraph (e) of Item 1 in Table 1 of subsection 6(2) of the AML/CTF Act, a person undertaking the activity of credit card issuing or credit card acquiring (or both specified, if the person:

- (1) is a participant in a payment scheme that is designated to be a payment system under section 11 of the *Payments Systems (Regulation) Act 1998*; and
- (2) is not an ADI, bank, building society or credit union.

71.3 For the purposes of paragraph (e) of Item 2 in Table 1 of subsection 6(2) of the AML/CTF Act, a person undertaking the activity of credit card issuing or credit card acquiring (or both specified, if the person:

- (1) is a participant in a payment scheme that is designated to be a payment system under section 11 of the *Payments Systems (Regulation) Act 1998*; and
- (2) is not an ADI, bank, building society or credit union.

71.4 For the purposes of paragraph (e) of Item 3 in Table 1 of subsection 6(2) of the AML/CTF Act, a person undertaking the activity of credit card issuing or credit card acquiring (or both specified, if the person:

- (1) is a participant in a payment scheme that is designated to be a payment system under section 11 of the *Payments Systems (Regulation) Act 1998*; and
- (2) is not an ADI, bank, building society or credit union.

71.5 In this Chapter:

- (1) 'credit card acquiring' means an action of a person in

course of participation in a payment system that is a credit card scheme in which the person pays, or accepts liability to pay, a merchant (either directly or through another person) for goods or services obtained, or to be obtained, by another person from the merchant in a credit card transaction;

- (2) 'credit card issuing' means an action of a person in the course of participation in a payment system that is a credit card scheme in which the person issues a credit card to another person (a customer) and:
  - (a) receives payments from the customer for amounts owed by the customer, under the terms governing the credit card, for credit card transactions; or
  - (b) pays, or accepts liability to pay, a credit card acquirer (either directly or through another person) for amounts paid or payable by the acquirer to a merchant for the customer's credit card transactions;
- (3) 'credit card transaction' means the purchasing of goods or services from a merchant on credit using a credit card;
- (4) 'merchant' means a person who provides goods or services to another person and accepts payment for the goods or services by credit card; and
- (5) 'payment system' means a funds transfer system that facilitates the circulation of money, and includes any instruments and procedures that relate to the system.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 995.*

## **Account-based money transfer systems**

72.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the definition of 'ordering institution' and 'beneficiary institution' in subparagraphs 8(1)(c)(v), 8(1)(d)(v), 9(1)(c)(v) and 9(1)(d)(v) of the AML/CTF Act and paragraph 45(3)(b) of that Act.

### *MoneyGram*

#### *Instructions transmitted into Australia*

72.2 For the purposes of subparagraphs 8(1)(c)(v) and 9(1)(c)(v), the following person is specified to be an ordering institution:

- (1) a non-financier when:
  - (a) the non-financier accepts an instruction from a payer to transfer money controlled by the payer to a payee;
  - (b) the instruction is accepted through a permanent establishment of the non-financier in a foreign country.

- (c) the instruction is accepted on the basis that the transferred money will be made available to the payee as a result of the instruction being transmitted into Australia via the MoneyGram Money Transfer Service; and
- (d) the transferred money is to be, or is, only made available to the payee at or through a permanent establishment of a beneficiary institution in Australia in circumstances where:
  - (i) the beneficiary institution has a contractual arrangement with MoneyGram to receive the transmitted instruction; and
  - (ii) the ordering institution will make the money available to the payee.

#### *Instructions transmitted out of Australia*

72.3 For the purposes of subparagraphs 8(1)(d)(v) and 9(1)(d)(v), the following person is specified to be a beneficiary institution:

- (1) a non-financier in a foreign country when:
  - (a) the payer, through the permanent establishment of the ordering institution in Australia, instructs that the ordering institution to transfer money controlled by the payer to a payee in the foreign country; and
  - (b) the ordering institution, which has a contractual arrangement with MoneyGram to accept such instructions, transmits the instructions out of Australia via the MoneyGram Money Transfer Service to the non-financier; and
  - (c) the non-financier, through a permanent establishment of the non-financier in the foreign country, will make, or makes, the money available to the payee.

72.4 If either of the following are applicable:

- (1) an International Funds Transfer Instruction is accepted by a non-financier who because of the operation of paragraph 72.2 is an ordering institution; or
- (2) money transferred as a result of an International Funds Transfer Instruction is to be or is made available to the payee at or through a permanent establishment of a non-financier who because of the operation of paragraph 72.2 is a beneficiary institution;

then, for the purposes of paragraph 45(3)(b) of the AML/CTF Act, the information contained in the Schedule to this Chapter is specified.

#### *Western Union*

#### *Instructions transmitted into Australia*

72.5 For the purposes of subparagraphs 8(1)(c)(v) and 9(1)(c)(v), the following person is specified to be an ordering institution:

- (1) a non-financier when:
  - (a) the non-financier accepts an instruction from a payer to transfer money controlled by the payer to a payee;
  - (b) the instruction is accepted through a permanent establishment of the non-financier in a foreign country;
  - (c) the instruction is accepted on the basis that the transferred money will be made available to the payee as a result of the instruction being transmitted into Australia via the Western Union Money Transfer Service; and
  - (d) the transferred money is to be, or is, only made available to the payee at or through a permanent establishment of a beneficiary institution in Australia in circumstances where:
    - (i) the beneficiary institution has a contractual arrangement with Western Union to receive the transmitted instruction; and
    - (ii) the non-financier will make the money available to the payee.

*Instructions transmitted out of Australia*

72.6 For the purposes of subparagraphs 8(1)(d)(v) and 9(1)(d)(v), the following person is specified to be a beneficiary institution:

- (1) a non-financier in a foreign country when:
  - (a) the payer, through the permanent establishment of the ordering institution in Australia, instructs that the ordering institution to transfer money controlled by the payer to a payee in the foreign country; and
  - (b) the ordering institution, which has a contractual arrangement with Western Union to accept such instructions, transmits the instructions out of Australia via the Western Union Money Transfer Service to the non-financier; and
  - (c) the non-financier, through a permanent establishment of the non-financier in the foreign country, will make, or makes, the money available to the payee.

72.7 If either of the following are applicable:

- (1) an International Funds Transfer Instruction is accepted by a non-financier who because of the operation of paragraph 72.5 is an ordering institution; or
- (2) money transferred as a result of an International Funds Transfer Instruction is to be or is made available to the payee at or through a permanent establishment of a non-financier who because of the operation of paragraph 72.5 is a beneficiary institution;

then, for the purposes of paragraph 45(3)(b) of the AML/CTF Act, the information contained in the Schedule to this Chapter is

specified.

72.8 In this Chapter:

- (1) 'MoneyGram' means MoneyGram International, Inc., a Delaware corporation, Federal Employer Identification Number 16-1690064, with its principal executive offices situated at 2828 North Harwood Street, Dallas, Texas 75201, USA, listed on the NASDAQ, and any subsidiary of it;
- (2) 'MoneyGram Money Transfer Service' means the international remittance service for retail consumer transactions, branded MoneyGram Money Transfer Service;
- (3) 'Western Union' means the Western Union Company, a Delaware USA Corporation, Internal Revenue Service Employer Identification Number 20-4531180, with its principal executive offices situated at 12500 East Belford Avenue, Englewood, Colorado 80112, USA, listed on the New York Stock Exchange, and any subsidiary of it;
- (4) 'Western Union Money Transfer Service' means the international remittance service for retail consumer transactions, branded Western Union Money Transfer Service.

### **Schedule**

#### **Reportable details for International Funds Transfer Instructions for account-based money transfers**

##### *Instructions transmitted into Australia*

1. For the purposes of paragraphs 72.4(1) and 72.7(1), a report about an international funds transfer instruction (the instruction) must contain:
  - (1) if the transferor entity is an individual:
    - (a) the transferor entity's name;
    - (b) any other name used by the transferor entity, if known;
    - (c) the transferor entity's date of birth, if known;
    - (d) the transferor entity's address (not being a post box address);
    - (e) the transferor entity's postal address, if different from subparagraph 1(1)(d), if known;
    - (f) the transferor entity's telephone number, if known;
    - (g) the transferor entity's email address, if known;
    - (h) the transferor entity's occupation, business or principal activity, if known;
  - (2) if the transferor entity is a non-individual:
    - (a) the name of the transferor entity and any business structure under which the transferor entity is operating;
    - (b) a description of the legal form of the transferor entity and any business structure it is a part of, for the purposes of the law of the country of incorporation or formation of the transferor entity;

or its main business activities, if known (for example, partnership, trust or company);

- (c) the business or principal activity of the transferor entity, if known;
  - (d) the address (not being a post box address) of the transferor entity at which it carries on business, or its principal place of business;
  - (e) the transferor entity's postal address, if different from subparagraph 1(2)(d), if known;
  - (f) the transferor entity's telephone number, if known;
  - (g) the transferor entity's email address, if known;
- (3) for a person in a foreign country who accepts the instruction from the transferor entity for the transfer of money (foreign entity):
- (a) if the foreign entity is an individual:
    - (i) the foreign entity's full name;
    - (ii) any other name used by the foreign entity, if known;
    - (iii) the foreign entity's date of birth, if known;
    - (iv) the foreign entity's address (not being a post box address);
    - (v) the foreign entity's postal address, if different from subparagraph 1(3)(a)(iv), if known;
    - (vi) the foreign entity's telephone number, if known;
    - (vii) the foreign entity's email address, if known;
    - (viii) the foreign entity's occupation, business or principal activity, if known;
  - (b) if the foreign entity is a non-individual:
    - (i) the name of the foreign entity and any business name under which the foreign entity is operating;
    - (ii) a description of the legal form of the foreign entity and any business structure it is a part of for the purposes of its main business activities, if known (for example, partnership, trust or company);
    - (iii) the business or principal activity of the foreign entity, if known;
    - (iv) the address (not being a post box address) of the foreign entity at which it carries on business, or its principal place of business;
    - (v) the foreign entity's postal address, if different from subparagraph 1(3)(b)(iv), if known;
    - (vi) the foreign entity's telephone number, if known;
    - (vii) the foreign entity's email address, if known;

- (4) the date on which the foreign entity accepts the instruction from the transferor entity, if known;
- (5) the identifier (if applicable), and/or the name and address (not being a post box address) of the foreign entity at which the instruction is accepted from the transferor entity, if applicable and known;
- (6) the number of the transferor entity's account held with the foreign entity which accepts the instruction from the transferor entity, if applicable;
- (7) where a person (other than the foreign entity) transmits the instruction for the transfer of money under the designated remittance arrangement (transmitter):
  - (a) if the transmitter is an individual:
    - (i) the transmitter's full name, if known;
    - (ii) any other name used by the transmitter, if known;
    - (iii) the transmitter's date of birth, if known;
    - (iv) the transmitter's address (not being a post box address), if known;
    - (v) the transmitter's postal address, if different from that in subparagraph 1(7)(a)(iv), if known;
    - (vi) the transmitter's telephone number, if known;
    - (vii) the transmitter's email address, if known;
    - (viii) the transmitter's occupation, business or principal activity, if known;
  - (b) if the transmitter is a non-individual:
    - (i) the name of the transmitter and any business name under which the transmitter is operating, if known;
    - (ii) a description of the legal form of the transmitter and any business structure it is a part of, for the purposes of its main business activities, if known (for example, partnership, trust or company);
    - (iii) the business or principal activity of the transmitter, if known;
    - (iv) the address (not being a post box address) of the transmitter at which it carries on business, or its principal place of business, if known;
    - (v) the transmitter's postal address, if different from that in subparagraph 1(7)(b)(iv), if known;
    - (vi) the transmitter's telephone number, if known;
    - (vii) the transmitter's email address, if known;
- (8) the name and address of the entity in Australia to which the instruction for the transfer of money was sent by the transmitter;
- (9) the date on which the non-financier arranges for the money to be transferred;



- (9) the date on which the non-financier arranges for the money to be made available or makes or is to make the money available to the ultimate transferee entity;
- (10) the name and full address (not being a post box address) of the non-financier (receiver) who arranges for the money to be made available or that makes or is to make the money available to the ultimate transferee entity in Australia;
- (11) the identifier (if applicable), and/or the name and address (not being a post box address) of the person, if different from the person in subparagraph 1(10), at which the money is made or is to be made available to the ultimate transferee entity in Australia;
- (12) if the ultimate transferee entity is an individual, the ultimate transferee entity's:
- (a) full name;
  - (b) date of birth, if known;
  - (c) full residential address (not being a post box address) if known;
  - (d) postal address, if different from subparagraph 1(12)(c), if known;
  - (e) telephone number, if known;
  - (f) email address, if known;
  - (g) occupation, business or principal activity and ABN, if known;
- (13) if the ultimate transferee entity is a non-individual:
- (a) the name of the ultimate transferee entity and any business name under which the ultimate transferee entity is operating;
  - (b) a description of the legal form of the ultimate transferee entity and any business structure it is a part of, for the purposes of its main business activities, if known (for example, partnership, trust or company);
  - (c) the business or principal activity of the ultimate transferee entity, if known;
  - (d) the full address (not being a post box address) of the ultimate transferee entity at which it carries on business or its principal place of business, if known;
  - (e) the ultimate transferee entity's postal address, if different from subparagraph 1(13)(d), if known;
  - (f) where the ultimate transferee entity has an ACN or ARBN – that number;
  - (g) where the ultimate transferee entity has an ABN – that number;
  - (h) the ultimate transferee entity's telephone number, if known;
  - (i) the ultimate transferee entity's email address, if known;
- (14) (a) the amount referred to in the instruction;

- (b) the currency of the amount referred to in the instruction;
- (15) if money is to be made available to the ultimate transferor entity by a person in Australia depositing or arranging for money to be deposited into an account held by the ultimate transferee entity with that person, whether or not held jointly with any other person or persons:
  - (a) the account number of that account, if applicable;
  - (b) the name in which the account is held, if applicable;
  - (c) the name and location of the institution at which the account is held;
- (16) any reference number allocated by the reporting entity in the instruction;
- (17) any information given in the instruction about the reasons for transferring the money.

#### *Instructions transmitted out of Australia*

2. For the purposes of paragraphs 72.4(2) and 72.7(2) of these AML/CTF Rules, a report about an international funds transfer instruction (the instruction) must contain:

- (1) if the transferor entity is an individual:
  - (a) the transferor entity's full name;
  - (b) any other name used by the transferor entity, if known;
  - (c) the transferor entity's date of birth;
  - (d) the transferor entity's full residential address (not being a post box address);
  - (e) the transferor entity's postal address, if different from subparagraph 2(1)(d), if known;
  - (f) the transferor entity's telephone number, if known;
  - (g) the transferor entity's email address, if known;
  - (h) the transferor entity's occupation, business or principal activity and ABN, if known;
  - (i) the customer's bank, building society or credit union (whichever applicable) account number;
  - (j) the identification number assigned to the transferor entity, if applicable;
- (2) if the transferor entity is a non-individual:
  - (a) the name of the transferor entity and any business structure under which the transferor entity is operating;
  - (b) a description of the legal form of the transferor entity and any business structure it is a part of, for the purpose of its main business activities, if known (for example, partnership, trust or company);

- (c) the business or principal activity of the transferor entity, if known;
  - (d) the full address (not being a post box address) of the transferor entity at which the entity carries on business or its principal place of business;
  - (e) the transferor entity's postal address, if different from subparagraph 2(2)(d), if known;
  - (f) where the transferor entity has an ACN or ARBN – that number;
  - (g) where the transferor entity has an ABN – that number;
  - (h) the transferor entity's telephone number, if known;
  - (i) the transferor entity's email address, if known;
  - (j) the customer's bank, building society or credit union (whichever applicable) account number;
  - (k) the identification number assigned to the transferor entity, if applicable;
- (3) the identifier (if applicable), and/or the name and address (not being a post box address) of a non-financier (sender) who accepts the instruction from the transferor entity, for the transfer of money under the designated remittance arrangement;
- (4) the date on which the non-financier accepts the instruction from the transferor entity;
- (5) the name and address (not being a post box address) of the person at which money is accepted from the transferor entity, if different from subparagraph 2(3);
- (6) the number of the transferor entity's account held with the person which accepts the instruction from the transferor entity, if applicable;
- (7) where a person (other than the person referred to in subparagraph 2(3)) transmits the instruction for the transfer of money under the designated remittance arrangement (transmitter):
- (a) if the transmitter is an individual:
    - (i) the transmitter's full name;
    - (ii) any other name used by the transmitter, if known;
    - (iii) the transmitter's date of birth, if known;
    - (iv) the transmitter's address (not being a post box address);
    - (v) the transmitter's postal address, if different from subparagraph 2(7)(a)(iv), if known;
    - (vi) the transmitter's telephone number, if known;
    - (vii) the transmitter's email address, if known;

- (viii) the transmitter's occupation, business or principal activity, if known;
- (b) if the transmitter is a non-individual:
  - (i) the name of the transmitter and any business name under which the transmitter is operating
  - (ii) a description of the legal form of the transmitter and any business structure it is a part of, for the purposes of its main business activities, if known (for example, partnership, trust or company);
  - (iii) the business or principal activity of the transmitter, if known;
  - (iv) the address (not being a post box address) of the transmitter at which the transmitter carries on business, or its principal place of business;
  - (v) the transmitter's postal address, if different from subparagraph 2(7)(b)(iv), if known;
  - (vi) where the transmitter has an ACN or ARBN - number;
  - (vii) where the transmitter has an ABN - that number;
  - (viii) the transmitter's telephone number, if known;
  - (ix) the transmitter's email address, if known;
- (8) the name and address of the person in the foreign country in which the sender and/or transmitter sent the instruction for the transfer of money;
- (9) the identifier (if applicable), and/or the name and address of a person (disbursing entity) who arranges for the money to be made available or at which the money is, or is to be, made available to the ultimate transferee entity;
- (10) the date on which the money becomes accessible for the disbursing entity to make available to the ultimate transferee entity, if known;
- (11) if the ultimate transferee entity is an individual, the ultimate transferee entity's:
  - (a) full name;
  - (b) date of birth, if known;
  - (c) address (not being a post box address);
  - (d) postal address, if different from subparagraph 2(11)(c), if known;
  - (e) telephone number, if known;
  - (f) email address, if known;
- (12) if the ultimate transferee entity is a non-individual:
  - (a) the name of the ultimate transferee entity and any business name under which the ultimate transferee entity is operating;

- (b) a description of the legal form of the ultimate transferee entity and any business structure it is a part of, for the purposes of its main business activities, if known (for example, partnership, trust or company);
  - (c) the business or principal activity of the ultimate transferee entity, if known;
  - (d) the address (not being a post box address) of the ultimate transferee entity at which it carries on business or its principal place of business;
  - (e) the ultimate transferee entity's postal address if different from subparagraph 2(12)(d), if known;
  - (f) the ultimate transferee entity's telephone number, if known;
  - (g) the ultimate transferee entity's email address, if known;
- (13) (a) the amount referred to in the instruction;
- (b) the currency of the amount referred to in the instruction;
- (14) if money is to be made available to the ultimate transferee entity by a person in a foreign country depositing or arranging for the money to be deposited into an account held by the ultimate transferee entity with that person, whether or not held jointly with any other person or persons:
- (a) the account number of that account, if applicable;
  - (b) the name in which the account is held, if applicable;
  - (c) the name and location of the institution at which the account is held;
- (15) any reference number allocated by the non-financier to the instruction;
- (16) any information given in the instruction about the reasons for transferring the money.
3. A report under subsection 45(2) of the AML/CTF Act must contain the following details about the person completing the report:
- (1) Full name;
  - (2) Job title or position;
  - (3) Telephone number; and
  - (4) Email address.
4. In this Schedule:
- (1) 'identifier' means a Bank Identifier Code (BIC), a Bank-Swift Branch identifying code (BSB) or Branch Registration Number (BRN) previously registered with AUSTRAC.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with*

*the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

## **Exemption for Registered Plan Management Providers**

73.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules are made under section 229 for subsection 247(3) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

73.2 Subject to paragraph 73.3, the AML/CTF Act does not apply to a designated service that:

- (1) is of a kind described in item 31 of table 1 in subsection 247(3) of the AML/CTF Act; or
- (2) is of a kind described in item 32 of table 1 in subsection 247(3) of the AML/CTF Act.

73.3 The exemption in paragraph 73.2 only applies if:

- (1) the designated service is provided by a person who is a Registered Plan Management Provider under the *National Disability Insurance Scheme Act 2013*; and
- (2) the provision of the designated service relates solely to managing the funding for supports for a participant in the National Disability Insurance Scheme.

73.4 In this Chapter:

- (1) 'Managing the funding for supports' has the same meaning as in section 42 of the *National Disability Insurance Scheme Act 2013*;
- (2) 'National Disability Insurance Scheme' has the same meaning as in section 9 of the *National Disability Insurance Scheme Act 2013*;
- (3) 'Participant' has the same meaning as in section 9 of the *National Disability Insurance Scheme Act 2013*;
- (4) 'Registered Plan Management Provider' has the same meaning as in section 9 of the *National Disability Insurance Scheme Act 2013*.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99*

## **Exemption for licensed trustee companies**

74.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules are made under section 229 for subsection 247(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act*

74.2. Subject to paragraph 74.3, Divisions 2 to 7 of Part 2, Division 5 of Part 3 and Parts 3A, 5, 6, 7 and 10 of the AML/CTF Act do not apply to a designated service that:

- (1) is of a kind described in items 33, 34, or 46 of Table 1 in subsection 6(2) of the AML/CTF Act; or
- (2) is of a kind described in items 1 or 2 of Table 2 in subsection 6(3) of the AML/CTF Act.

74.3 The exemption in paragraph 74.2 only applies if:

- (1) the person who provides the designated service is a licensed trustee company; and
- (2) the trustee acts in the capacity of:
  - (a) a manager appointed by the law or a Court or Tribunal to manage the financial affairs of a person without the capacity;
  - (b) an executor or administrator of a deceased estate;
  - (c) a trustee of a trust established by:
    - (i) a will;
    - (ii) an order of a court or tribunal; or
    - (iii) a direction of a statutory office holder;
  - (d) an attorney under an enduring power of attorney; or
  - (e) an agent of a person lacking capacity under an agency arrangement.

74.4 The exemption in paragraph 74.2 does not apply where the person is acting in the capacity of a trustee of an inter vivos trust.

74.5 In this Chapter:

- (1) 'inter vivos trust' means a trust established between living persons that commences when the settlor is alive;
- (2) 'licensed trustee company' has the same meaning as in section 601RAA of the *Corporations Act 2001*;
- (3) 'statutory office holder' means a person who holds any office or appointment under an Act;

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to the [OAIC website](#) or call 1300 363 992.*

## Law Enforcement Operations

75.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules are made under section 229 for subsection 247(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act*

### **Reporting entities assisting specified agencies with investigations may be exempted from certain obligations under the AML/CTF Act**

If a requesting officer of an eligible agency reasonably believes that providing a designated service to a customer would assist the investigation of a serious offence, the officer can request the AUSTRAC CEO to exempt specified reporting entities from certain AML/CTF Act obligations.

75.3 The exemption in paragraph 75.2 applies to the following provisions of the AML/CTF Act:

- (1) section 29 (verification of identity for certain pre-commencement customers);
- (2) section 32 (carrying out the applicable customer identification procedure before the commencement of the provision of a designated service);
- (3) section 34 (carrying out the applicable customer identification procedure after the commencement of the provision of a designated service);
- (4) section 35 (verification of identity of customer);
- (5) section 36 (ongoing customer due diligence);
- (6) section 82 (compliance with Part A of an anti-money laundering and counter-terrorism financing program);
- (7) section 136 (false or misleading information);
- (8) section 137 (producing false or misleading documents);
- (9) section 138 (false documents);
- (10) section 139 (providing a designated service using a false customer name or customer anonymity); and
- (11) section 142 (conducting transactions so as to avoid reporting requirements relating to threshold transactions).

### **Application requirements**

75.4 An application for exemption must:

- (1) be made in writing by a requesting officer;
- (2) provide sufficient information to enable the AUSTRAC CEO to decide whether or not to approve the application; and
- (3) contain the requesting officer's declaration that the information contained in the application is true, accurate and complete.

### **Determining application and notice of decision**

75.5 In determining an application, and without limiting the information the AUSTRAC CEO may have regard to, the AUSTRAC CEO must consider all information contained in the application.

75.6 The AUSTRAC CEO must, as soon as practicable after deciding an application, give written notice of that decision to both the



an application, give written notice of that decision to both the eligible agency and the specified reporting entity or entities.

75.7 The written notice must set out:

- (1) the reasons for the decision; and
- (2) if the application is approved, the start date of the exemption and any conditions that may apply.

### **Exemption period**

75.8 An exemption will operate for a period of six months starting the date specified in the notice of the decision, or until the eligible agency notifies both the AUSTRAC CEO and the exempted reporting entity or entities that the relevant investigation has ceased, whichever occurs first.

75.9 The AUSTRAC CEO may extend the operation of the exemption for further period(s) upon written application made by a requesting officer of the eligible agency.

### **Definitions**

75.10 In this Chapter:

- (1) 'eligible agency' means:
  - (a) the Australian Crime Commission;
  - (b) the Australian Federal Police;
  - (c) the Immigration Department;
  - (d) the NSW Crime Commission; or
  - (e) the police force or police service of a State or the Northern Territory.
- (2) 'requesting officer' means:
  - (a) the head of an eligible agency;
  - (b) a member of the eligible agency who is an SES employee or an equivalent under State or Territory legislation; or
  - (c) a member of an eligible agency who holds the rank of Superintendent or higher.
- (3) 'serious offence' means:
  - (a) an offence against a law of the Commonwealth, or a law of a State or Territory, punishable on indictment by imprisonment for 2 or more years; or
  - (b) an offence against a law of a foreign country constituted by conduct that, if it had occurred in Australia, would have constituted a serious offence.

*Reporting entities should note that in relation to activities that they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 002.*

## Digital Currency Exchange Register

76.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of Part 6A of that Act. Sections 136 and 137 of the AML/CTF Act apply to each paragraph in this Chapter. These Rules come into effect on the date that section 76B of the AML/CTF Act comes into effect.

### Registration on the Digital Currency Exchange Register

#### *Applications for registration*

An application for a person (the applicant) to be registered on the Digital Currency Exchange Register must:

- (1) be made by an individual authorised to act on behalf of the applicant;
- (2) be made using the approved form; and
- (3) contain the relevant registrable details as prescribed by that form including:
  - (a) identification and, where applicable, registration details of the applicant and each of the applicant's key personnel;
  - (b) details regarding the nature, legal form, status, and structure of the applicant's business (including in relation to beneficial ownership and control); and
  - (c) whether the applicant or any of its key personnel have been:
    - i. charged, prosecuted, or convicted in relation to money laundering, terrorism financing, terrorism, people smuggling, fraud, a serious offence, or an offence under the AML/CTF Act or FTR Act; or
    - ii. the subject of any adversely determined civil or criminal proceedings or enforcement action in relation to the management of an entity, or their commercial or professional activities.

#### *Determining applications for registration*

In determining whether it is appropriate to register a person the AUSTRAC CEO must have regard to:

- (1) whether the applicant has complied with the application requirements under paragraph 76.2; and
- (2) the information contained in the application, including whether there are reasonable grounds to suspect that any information or document provided by the applicant is false or misleading (whether by inclusion or omission) in a material particular.

## **Renewal of registration**

### *Applying for renewal of registration*

An application for renewal of registration must be made within the 90-day period ending on the day on which their registration would otherwise cease under section 76H(1)(c) of the AML/CTF Act (being 3 years after the day on which registration took effect).

An application for renewal must be made using the approved form and must contain all relevant information prescribed by that form

including a declaration that:

- (1) the person has complied with the requirements of section 76P of the AML/CTF Act, where applicable; and
- (2) the person's enrolment and registration details as they appear on both the Reporting Entities Roll and the Digital Currency Exchange Register are current and correct.

### *Provisional continuation of registration*

76.6 Provided that an application for renewal of registration has complied with the requirements in paragraphs 76.4 and 76.5, person's registration will continue until the date on which the decision of the AUSTRAC CEO takes effect, as specified in the notice provided under paragraph 76.9.

### *Deciding applications for renewal*

If an application for renewal of registration has been made, the AUSTRAC CEO must renew the registration for a period of three years if satisfied that it is appropriate to do so.

76.8 In deciding whether it is appropriate to renew a person's registration, the AUSTRAC CEO must have regard to:

- (1) whether the applicant has complied with the requirements under paragraph 76.5;
- (2) the information contained in the application, including whether there are reasonable grounds to suspect that any information or document provided by the applicant is false or misleading (whether by inclusion or omission) in a material particular; and
- (3) whether the renewal of registration may involve significant money laundering, financing of terrorism, or other serious crime risk.

As soon as practicable after making a decision regarding a renewal application, the AUSTRAC CEO must provide the applicant with written notice of:

- (1) the terms of the decision (including any conditions that the renewed registration is subject to); and
- (2) if the decision is not to renew registration:
  - (a) the date the decision takes effect;
  - (b) the reasons for the decision; and
  - (c) the particulars of the person's right to have the

decision reviewed.

*Note: A decision not to renew registration is declared to be reviewable decision for the purposes of section 233B of the AML/CTF Act.*

76.10 A failure to comply with the requirements of paragraph 76.9 does not affect the validity of the decision.

### **Suspension of registration**

76.11 The AUSTRAC CEO may suspend a person's registration on the Digital Currency Exchange Register for a specified period of time with or without prior notice, if satisfied that it is appropriate to do so.

2 In deciding whether it is appropriate to suspend a person's registration, and without limiting the matters that may be considered, the AUSTRAC CEO may have regard to:

- (1) whether the person or any of its key personnel have been:
  - (a) charged, prosecuted, or convicted in relation to money laundering, terrorism financing, terrorism, people smuggling, fraud, a serious offence, or an offence under the AML/CTF Act or FTR Act;
  - (a) the subject of a civil penalty order made under the AML/CTF Act; or
  - (b) the subject of any adversely determined civil or criminal proceedings or enforcement action in relation to the management of an entity, or their commercial or professional activities; and
- (2) whether there are reasonable grounds to believe that:
  - (a) any information or document provided under this Chapter was false or misleading (whether by inclusion or omission) in a material particular;
  - (b) the continued registration of the person involves, or may involve, significant money laundering, financing of terrorism, or other serious crime risk; or
  - (c) the person has contravened a condition of registration imposed under section 76G of the AML/CTF Act.

76.13 The AUSTRAC CEO may also suspend a person's registration if reasonable grounds exist on which to commence an action to cancel the registration of the person under section 76J of the AML/CTF Act, and that action has not been completed.

4 As soon as practicable after making a decision to suspend a person's registration, the AUSTRAC CEO must provide the applicant with written notice of:

- (1) the terms of the decision; and
- (2) if the decision is to suspend registration:
  - (a) the period of suspension;
  - (b) the reasons for the decision; and
  - (c) the particulars of the person's right to have the

decision reviewed.

*Note: A decision to suspend registration is declared to be a reviewable decision for the purposes of section 233B of the AML/CTF Act.*

76.15 A failure to comply with the requirements of paragraph 76.1 does not affect the validity of the decision.

### **Cancellation of registration**

76.16 In determining whether it is appropriate to cancel a person's registration, and without limiting the matters that may be considered, the AUSTRAC CEO may consider the matters outlined in paragraph 76.12.

### **Review of reviewable decisions**

76.17 An application to have a decision reviewed does not affect the operation of the decision or prevent the taking of action to implement the decision.

### **Registered persons to update and correct information**

8 If a person registered on the Digital Currency Exchange Register becomes aware:

- (1) of a change that materially affects any information previously provided under this Chapter; or
- (2) that any information or document provided under this Chapter is incorrect, incomplete, or misleading in a material respect,  
the person must advise the AUSTRAC CEO and provide updated information in accordance with subsection 76P(2) of the AML/CTF Act.

*Note: Subsection 76P(2) of the AML/CTF Act provides that a person registered on the Digital Currency Exchange Register who is required to advise the AUSTRAC CEO of a change in circumstances or a matter must do so in accordance with approved form, and within 14 days of the change in circumstances or the matter arising.*

### **Correction of entries on the Register**

9 If the AUSTRAC CEO has reasonable grounds to believe that an entry on the Digital Currency Exchange Register is incorrect, incomplete, or misleading, the AUSTRAC CEO may correct or complete the entry.

10 The AUSTRAC CEO must give written notice to the affected person as soon as practicable after amending an entry specifying:

- (1) the changes that were made to the entry and the reasons for amendment; and
- (2) the date on which the changes to the entry take effect.

### **Publication of information**

76.21 The AUSTRAC CEO may publish, in any manner or form that is considered appropriate, any or all of the following:

- (1) the Digital Currency Exchange Register, in whole or in

part;

- (2) specified information entered on the Digital Currency Exchange Register;
- (3) details of persons whose applications for registration or renewal of registration on the Digital Currency Exchange Register have been refused;
- (4) details of persons whose registration on the Digital Currency Exchange Register has been suspended, and the date the suspension took effect; and
- (5) details of persons whose registration on the Digital Currency Exchange Register has been cancelled, and the date the cancellation took effect.

## **Definitions**

76.22 In this Chapter:

- (1) 'approved' means approved by the AUSTRAC CEO, in writing, for the purposes of the provision in which the term occurs.
- (2) 'authorised individual' means a natural person who is:
  - (a) a beneficial owner; or
  - (b) an officer as defined in section 9 of the Corporations Act 2001 or;
  - (c) an employee of the applicant who has been authorised in writing by an applicant to act in this capacity;
- (3) 'key personnel' means:
  - (a) in the case of a company, corporation sole or body politic, is a natural person that is;
    - i. a beneficial owner; or
    - ii. an officer as defined in section 9 of the Corporations Act 2001, or an employee or agent of the body corporate with duties of such responsibility that his or her conduct may fairly be assumed to represent the body corporate's policy;
  - (b) in the case of an individual, trust or partnership, is a natural person that is an employee or agent of the individual, trust or partnership with duties of such responsibility that his or her conduct may fairly be assumed to represent the policy of the individual, trust or partnership;
- (4) 'serious offence' means:
  - (a) an offence against a law of the Commonwealth, or a law of a State or Territory, punishable on indictment by imprisonment for 2 or more years; or
  - (b) an offence against a law of a foreign country constituted by conduct that, if it had occurred in Australia, would have constituted a serious offence.

*Reporting entities should note that in relation to activities they*

Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99

## **Exemption from the applicable customer identification procedure for the purposes of Schedule 13 to the Coronavirus Economic Response Package Omnibus Act 2020**

Chapter 77 is part of the Australian Government's response to the COVID pandemic. It is a time-limited measure that provides a reporting entity with an exemption from the applicable customer identification procedure to facilitate the early release of superannuation to those individuals approved by the Australian Taxation Office (ATO) as meeting the relevant criteria.

77.1 These AML/CTF Rules are made under section 229 of the AML/CTF Act for the purposes of subsection 39(4) of that Act.

77.2 Section 32 of the AML/CTF Act does not apply to a designated service of a kind described in item 43 or 45 of table 1 in section 6 of the AML/CTF Act in the circumstances specified in paragraph 77.3.

77.3 The exemption in paragraph 77.2 applies in the following circumstances:

- (1) the designated service is provided in response to an application made to the ATO by a customer mentioned in item 43 or 45 of table 1 in section 6 of the AML/CTF Act, who is a member of a retirement savings account holder, during the period of 15 September 2020 to 24 September 2020; and
- (2) the provision of the designated service is approved by a determination made by the ATO under subregulation 4.22B of the *Retirement Savings Account Regulations 1997* or subregulation 6.19B(3) of the *Superannuation Industry (Supervision) Regulations 1994*.

Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 99

## **Notes to the Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)**

### **Note 1**

The *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)* (in force under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*) as shown in this compilation is amended as indicated in the Tables below.

### **Table of Instruments**

Title	Date of FRL registration	Date of commencement	Application saving or transition
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				provisions
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)</i>	13 Apr 2007 (see F2007L01000)	Ss. 1-3: 14 Apr 2007 Schedule 1: 12 June 2007 Schedule 2: 12 Dec 2007		
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2007 (No. 1)</i>	28 June 2007 (see F2007L01959)	29 June 2007		—
<b>as amended by</b>				
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2007 (No. 2)</i>	24 July 2007 (see F2007L02318)	25 July 2007		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2007 (No. 3)</i>	26 Oct 2007 (see F2007L04255)	27 Oct 2007		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2007 (No. 4)</i>	18 Dec 2007 (see F2007L04878)	Schedule 1: 12 Dec 2007 Schedule 2: 12 Dec 2008		—
<b>as amended by</b>				
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No. 7)</i>	10 Dec 2008 (see F2008L04629)	11 Dec 2008		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2007 (No. 5)</i>	20 Dec 2007 (see F2007L04925)	Ss. 1-3 and Schedule 1: 21 Dec 2007 Schedule 2: 12 Dec 2008 (see s. 2 (b) )	Sch. 3 (as rep. by 201 (No. 3))	
<b>as amended by</b>				
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No. 1)</i>	29 Apr 2008 (see F2008L01170)	30 Apr 2008		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No. 7)</i>	10 Dec 2008 (see F2008L04629)	11 Dec 2008		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2009 (No. 3)</i>	9 Jul 2009 (see F2009L02693)	10 Jul 2009		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2010 (No. 3)</i>	20 Dec 2010 (see F2010L03318)	Ss. 1-3 and Schedule 2: 21 Dec 2010		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No. 1)</i>	29 Apr 2008 (see F2008L01170)	30 Apr 2008		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No. 2)</i>	2 May 2008 (see F2008L01285)	3 May 2008		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No. 3)</i>	15 May 2008 (see F2008L01373)	16 May 2008		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No. 4)</i>	12 Aug 2008 (see F2008L03047)	13 Aug 2008		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No. 5)</i>	12 Aug 2008 (see F2008L03048)	13 Aug 2008		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No. 6)</i>	9 Oct 2008 (see F2008L03746)	10 Oct 2008		—
<i>Anti-Money Laundering and Counter-Terrorism</i>	10 Dec 2008 (see	11 Dec 2008		—



<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No. 7)</i>	(see F2008L04629)			
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No. 8)</i>	6 Jan 2009 (see F2009L00007)	7 Jan 2009		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2009 (No. 1)</i>	24 Mar 2009 (see F2009L01136)	25 Mar 2009		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2009 (No. 2)</i>	30 Mar 2009 (see F2009L01198)	31 Mar 2009		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2009 (No. 3)</i>	9 Jul 2009 (see F2009L02693)	10 Jul 2009		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2009 (No. 4)</i>	24 Aug 2009 (see F2009L03234)	25 Aug 2009		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2009 (No. 5)</i>	1 Dec 2009 (see F2009L04377)	2 Dec 2009		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2010 (No. 1)</i>	15 April 2010 (see F2010L00964)	16 April 2010		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2010 (No. 2)</i>	15 Sept 2010 (see F2010L02476)	16 Sept 2010		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2010 (No. 3)</i>	20 Dec 2010 (see F2010L03318)	Ss. 1-3 and Schedules 1 and 2: 21 Dec 2010 Schedule 3: 1 October 2011		—
<b>as amended by</b> <i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2011 (No. 6)</i>	27 Sept 2011 (see F2011L01977)	28 Sept 2011		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2011 (No. 1)</i>	4 March 2011 (see F2011L00378)	5 March 2011		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2011 (No. 2)</i>	20 May 2011 (see F2011L00832)	21 May 2011		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2011 (No. 3)</i>	25 May 2011 (see F2011L00861)	26 May 2011		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2011 (No. 4)</i>	27 June 2011 (see F2011L01266)	28 June 2011		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2011 (No. 5)</i>	22 Aug 2011 (see F2011L01705)	23 Aug 2011		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2011 (No. 6)</i>	27 Sept 2011 (see F2011L01977)	28 Sept 2011		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2011 (No. 7)</i>	28 Oct 2011 (see F2011L02155)	1 Nov 2011		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2011 (No. 8)</i>	21 Dec 2011 (see F2011L02774)	Schedule 1: 22 Dec 2011 Schedule 2: 27 Dec 2011		—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2012 (No. 1)</i>	31 Jan 2012 (see F2012L00111)	1 Feb 2012		—
<i>Anti-Money Laundering and Counter-Terrorism</i>	8 June 2012 (see F2012L01172)	9 June 2012		—

<i>Financing Rules Amendment Instrument 2012 (No. 2)</i>				
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2012 (No. 3)</i>	27 Jun 2012 (see F2012L01352)	28 June 2012	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2012 (No. 4)</i>	6 Sept 2012 (see F2012L01838)	7 Sept 2012	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2012 (No. 5)</i>	20 Dec 2012 (see F2012L02563)	21 Dec 2012	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2013 (No. 1)</i>	15 April 2013 (see F2013L00655)	16 April 2013	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2013 (No. 2)</i>	23 September 2013 (see F2013L01734)	24 September 2013	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2014 (No. 1)</i>	24 January 2014 (see F2014L00086)	25 January 2014	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2014 (No. 2)</i>	30 January 2014 (see F2014L00110)	31 January 2014	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2014 (No. 3)</i>	19 May 2014 (see F2014L00563)	Schedule 1: 20 May 2014 Schedule 2: 1 June 2014	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2014 (No. 4)</i>	7 August 2014 (see F2014L01076)	8 August 2014	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2014 (No. 5)</i>	23 December 2014 (see F2014L01796)	24 December 2014	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2014 (No. 6)</i>	23 December 2014 (see F2014L01797)	1 January 2015	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2015 (No. 1)</i>	22 January 2015 (see F2015L00067)	23 January 2015	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2015 (No. 2)</i>	11 November 2015 (see F2015L01775)	12 November 2015	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2016 (No. 1)</i>	15 September 2016 (see F2016L01444)	16 September 2016	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2016 (No. 2)</i>	6 December 2016 (see F2016L01867)	7 December 2016	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2017 (No. 1)</i>	19 April 2017 (see F2017L00451)	20 April 2017	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2017 (No. 2)</i>	22 June 2017 (see F2017L00733)	23 June 2017	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2017 (No. 3)</i>	3 July 2017 (see F2017L00870)	4 July 2017	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2017 (No. 4)</i>	20 December 2017 (see F2017L01678)	21 December 2017	—	
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2018 (No. 1)</i>	11 January 2018 (see F2018L00037)	12 January 2018	—	

<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2018 (No. 2)</i>	29 March 2018 (see F2018L00423)	3 April 2018	—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2018 (No. 3)</i>	20 December 2018 (see F2018L01813)	21 December 2018	—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2019 (No. 1)</i>	25 February 2019 (see F2019L00182)	26 February 2019	—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2019 (No. 2)</i>	3 April 2019 (see F2019L00518)	1 May 2019	—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2019 (No. 3)</i>	13 December 2019 (see F2019L01611)	14 December 2019	—
<i>Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2020 (No. 1)</i>	15 April 2020 (see F2020L00427)	16 April 2020	—

## Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

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