



Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011

No. 54, 2011

**An Act to impose a levy on persons regulated by the
Australian Transaction Reports and Analysis
Centre, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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**An Act to impose a levy on persons regulated by the
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[Assented to 28 June 2011]

The Parliament of Australia enacts:

Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011

No. 54, 2011 1

Section 1

1 Short title

This Act may be cited as the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
|--|--|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| 1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | 28 June 2011 |
| 2. Sections 3 to 10 | The later of: (a) 1 July 2011; and (b) the day this Act receives the Royal Assent. | 1 July 2011 |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Act binds the Crown

This Act binds the Crown in each of its capacities.

4 External Territories

This Act extends to every external Territory.

5 Extraterritorial application

This Act extends to acts, omissions, matters and things outside Australia.

6 Act does not impose levy on property of a State

- (1) This Act does not impose a tax on property of any kind belonging to a State.
- (2) In this section, *property of any kind belonging to a State* has the same meaning as in section 114 of the Constitution.

7 Definitions

- (1) In this Act:

census day, for a financial year, means:

- (a) for the 2011-12 financial year—the day the AUSTRAC CEO determines, by legislative instrument, to be the census day; or
- (b) for a later financial year:
 - (i) 1 July in that financial year; or
 - (ii) if the AUSTRAC CEO determines, by legislative instrument, another day in that financial year—that day.

A legislative instrument under paragraph (a) may, despite subsection 12(2) of the *Legislative Instruments Act 2003*, be made after the beginning of that financial year.

exempt entity, for a financial year, means a leviable entity who, by operation of the AML/CTF Rules made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, or by instrument made under section 248 of that Act, was, on the census day for that year, exempt from Part 7 of that Act.

indexation factor means the indexation factor calculated under section 10.

index number, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

leivable entity, in relation to a financial year (the *current year*), means a person who:

- (a) is a reporting entity (within the meaning of section 5 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*) at any time in the previous financial year; and
- (b) on the census day for the current year:
 - (i) is entered on the Reporting Entities Roll under Part 3A of that Act; or
 - (ii) is required, under section 51B of that Act, to apply to be entered on the Reporting Entities Roll; and
- (c) is not an exempt entity for the current year.

person has the same meaning as in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

statutory limit means:

- (a) in relation to the financial year commencing on 1 July 2011—\$33 million; or
- (b) in relation to a later financial year—the amount calculated by multiplying the statutory limit for the previous financial year by the indexation factor for the later financial year.

statutory minimum means:

- (a) in relation to the financial year commencing on 1 July 2011—\$100; or
 - (b) in relation to a later financial year—the amount calculated by multiplying the statutory minimum for the previous financial year by the indexation factor for the later financial year.
- (2) This Act applies to a partnership, unincorporated association or trust as if the partnership, unincorporated association or trust were a person, but with the following changes:
- (a) an obligation that would otherwise be imposed on the partnership by this Act is imposed on each partner instead, but may be discharged by any of the partners;
 - (b) an obligation that would otherwise be imposed on the association by this Act is imposed on each member of the association's committee of management instead, but may be discharged by any of the members;

- (c) an obligation that would otherwise be imposed on the trust by this Act is imposed on each trustee instead, but may be discharged by any of the trustees.

8 Imposition of AUSTRAC cost recovery levy

Levy payable in accordance with section 7 of the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Act 2011* is imposed.

9 Amount of levy

- (1) The Minister must, by legislative instrument, determine the amount of levy payable by a leviable entity for a financial year.
- (2) The sum of all amounts payable by all leviable entities under subsection (1) in relation to a financial year must not exceed the statutory limit for that year.
- (3) A determination made for the purposes of subsection (1) may do one or more of the following:
 - (a) specify an amount or a method for determining an amount;
 - (b) specify different amounts or methods for different classes of leviable entities;
 - (c) specify a nil amount or a method resulting in a nil amount;
 - (d) despite subsection 12(2) of the *Legislative Instruments Act 2003*, specify methods that refer to acts done or circumstances existing before either the commencement of the determination or the commencement of this Act, or both.
- (4) A determination made for the purposes of subsection (1) for the 2011-12 financial year may, despite subsection 12(2) of the *Legislative Instruments Act 2003*, be made after the beginning of that financial year.
- (5) If (apart from this subsection) the amount of levy payable by a leviable entity for a financial year would be less than the statutory minimum for that financial year, the amount of levy payable by the entity in relation to that financial year is nil.

10 Calculation of indexation factor

- (1) The *indexation factor* for a financial year is the number worked out by dividing the index number for the March quarter immediately preceding that financial year by the index number for the March quarter immediately preceding that first-mentioned March quarter.
- (2) The indexation factor is to be calculated to 3 decimal places, (rounding up if the fourth decimal place is 5 or more).
- (3) Calculations under subsection (1) are to be made:
 - (a) using only the index numbers published in terms of the most recently published reference base for the Consumer Price Index; and
 - (b) disregarding index numbers published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the reference base).

*[Minister's second reading speech made in—
House of Representatives on 12 May 2011
Senate on 14 June 2011]*

(81/11)
