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Statutory Rules 1997 No. *K*¹

303/

**Financial Transaction Reports Regulations²
(Amendment)**

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia,
acting with the advice of the Federal Executive Council, make the
following Regulations under the *Financial Transaction Reports
Act 1988*.

Dated *K* 1997.

29 October/
h WILLIAM DEANE/
Governor-General

By His Excellency's Command,

K
Minister for Justice

AMANDA VANSTONE/

1. Amendment

1.1 The Financial Transaction Reports Regulations are amended as
set out in these Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation
Act 1901*, s 48.]

2. Regulation 2 (Interpretation)

2.1 Subregulation 2 (1) (definitions of “exempt superannuation fund”, “Telecom” and “telephone service”):

Omit the definitions.

2.2 Subregulation 2 (1):

Insert the following definitions:

“**superannuation fund**’ has the meaning given by subsection 10 (1) of the *Superannuation Industry (Supervision) Act 1993*;

‘**Telstra**’ has the meaning given by the *Telstra Corporation Act 1991*.”

2.3 Subregulation 2 (3):

Omit ““exempt superannuation fund””, substitute ““superannuation fund””.

3. New regulation 2A

3.1 After regulation 2, insert:

Application—bullion transaction

“2A. These Regulations apply to a bullion transaction that involves a significant cash transaction.”

4. Regulation 3 (The verification procedure)

4.1 After subregulation 3 (1), insert:

“(1A) For paragraph 24C (2) (a) of the Act, the verification procedure for an identification record for a party to a bullion transaction consists of:

- (a) in the case of a company defined in regulation 5A—the procedure set out in that regulation; and
- (b) in all other cases:
 - (i) the checks mentioned in regulation 4 and the alternative check mentioned in regulation 9; or
 - (ii) obtaining an identification reference.

“(IB) For subparagraph (1A) (b) (ii), an identification reference is obtained by the means set out in section 21 of the Act as if a reference to:

- (a) a signatory to an account were a reference to a party to a bullion transaction; and
- (b) the signatory were a reference to the party; and
- (c) the account were a reference to the bullion transaction.”.

4.2 Subregulation 3 (2):

After “signatory” (twice occurring), insert “or party to the bullion transaction”.

4.3 Paragraph 3 (3) (b):

Omit the paragraph, substitute:

“(b) telephone contact mentioned in subparagraph 4 (1) (d) (ii);”.

4.4 Subregulation 3 (3):

Omit “a signatory to an account.”, substitute “the signatory to an account or party to the bullion transaction.”.

4.5 Subregulation 3 (3) (Example):

Omit the example, substitute:

“EXAMPLE

P has been identified by his or her current employer under subparagraph 4 (1) (a) (i) and that identification is worth 35 points. However, P cannot rely on identification by a former employer to gain a further 35 points for opening the same account or making the same bullion transaction. Similarly, if P has been identified by a former employer in relation to opening an account or making a bullion transaction, P cannot rely on identification by a current employer in relation to the same account or bullion transaction. The fact that subregulation 3 (3) only allows the points for identification under subparagraph 4 (1) (a) to be counted once does not, of course, prevent P from relying on

identification under *another* subparagraph of paragraph 4 (1) (a) or identification under another paragraph of subregulation 4 (1).”.

4.6 Subregulation 3 (4):

Omit “(4) (1) (g)”, substitute “4 (1) (g)”.

4.7 Subregulation 3 (4):

Omit “account.”, substitute “account or party to the bullion transaction.”.

4.8 Subregulation 3 (5) (Example):

Omit “(4) (1) (g)”, substitute “4 (1) (g)”.

4.9 Subregulation 3 (5) (Example):

Omit “for the purpose of opening, or becoming a signatory to an account.”, substitute “for identification purposes.”.

5. Regulation 4 (Verification generally)

5.1 Subregulation 4 (1):

After “any signatory”, insert “or party to a bullion transaction”.

5.2 For each of the following provisions, after “signatory”, insert “or party to the bullion transaction”:

Provision	Occurrences
paragraph 4 (1) (a)	1
subparagraph 4 (1) (a) (i)	2
subparagraphs 4 (1) (a) (iii) and (iv)	1
paragraph 4 (1) (b)	1
subparagraph 4 (1) (b) (ii)	2
subparagraph 4 (1) (b) (iii)	1
subparagraph 4 (1) (b) (v)	1
paragraph 4 (1) (c)	1
subparagraphs 4 (1) (c) (i) and (ii)	1
paragraph 4 (1) (d)	1
subparagraph 4 (1) (d) (ii)	1
paragraph 4 (1) (e)	2
paragraph 4 (1) (f)	2

Provision	Occurrences
subparagraph 4 (1) (f) (i)	1
paragraph 4 (1) (g)	2
paragraph 4 (1) (h)	1
paragraph 4 (1) (j)	1
subparagraph 4 (1) (j) (i)	1
sub-subparagraphs 4 (1) (j) (i) (A) and (B)	1
sub-subparagraphs 4 (1) (j) (ii) (A) and (B)	1

5.3 Subparagraph 4 (1) (d) (i):

Omit “Telecom” (twice occurring), substitute “Telstra”.

5.4 Subparagraph 4 (1) (d) (ii):

Omit “telephone service;”, substitute “telephone number;”.

5.5 Paragraph 4 (1) (i):

After “the signatory”, insert “or party to the bullion transaction”.

6. New regulation 5A

6.1 After regulation 5, insert:

Verification: company party to a bullion transaction

“5A. (1) This regulation applies if a bullion seller enters into a bullion transaction with a company.

“(2) Subject to subregulation (3), the bullion seller must obtain from the company:

- (a) for a company having a certificate of registration under the Corporations Law—a copy of that certificate:
 - (i) issued by the Australian Securities Commission; or
 - (ii) certified by a person under paragraph 8 (b) of the *Statutory Declarations Act 1959*; and
- (b) for a company not issued with a certificate of registration but having a certificate of incorporation—a copy of the certificate of incorporation certified by a person under paragraph 8 (b) of the *Statutory Declarations Act 1959*; and

- (c) the following information:
 - (i) its registration number allotted to it by the Australian Securities Commission;
 - (ii) the address of its registered office;
 - (iii) the address of its principal place of business; and
- (d) if the person who is conducting the bullion transaction on behalf of the company is an employee of the company—the following information about the person:
 - (i) the person's full name;
 - (ii) the position held by the person in the company; and
- (e) if the person who is conducting the bullion transaction on behalf of the company is not an employee of the company but has authority to act for it—the following information about the person:
 - (i) the person's full name and workplace address;
 - (ii) the person's relationship to the company;
 - (iii) the authority under which the person is conducting the bullion transaction;
 - (iv) the person's usual occupation.

[NOTE: Section 24D of the Act sets out the requirements for a bullion seller to keep records made or obtained about a party to a bullion transaction.]

“(3) A bullion seller is taken to have complied with the requirements of paragraph 5A (2) (a) or (b) if:

- (a) in the case of a company referred to in paragraph (2) (a)—the bullion seller has sighted the company's certificate of registration and has:
 - (i) made a copy of the certificate; and
 - (ii) endorsed it as a true copy; or
- (b) in the case of a company referred to in paragraph (2) (b)—the bullion seller has sighted the company's certificate of incorporation and has:
 - (i) made a copy of the certificate; and
 - (ii) endorsed it as a true copy; or
- (c) the company holds an account with the bullion seller and the bullion seller has retained account information relating to the company.

“(4) If the bullion seller has obtained all relevant information from the company under subregulation (2), the company’s identity is taken to have been verified.

“(5) Verification of the identity of the company under subregulation (4) is worth 100 points.

“(6) In this regulation:
‘company’ means a body registered or taken to be registered under Part 2.2 of the Corporations Law, or a body registered under Part 4.1 of the Corporations Law.”.

7. Regulation 9 (Verification: Aboriginal persons or Torres Strait Islanders resident in an isolated area)

7.1 Paragraph 9 (1) (d):

After “section 21”, insert “of”.

7.2 Subregulation 9 (2):

After “account”, insert “or party to the bullion transaction”.

7.3 Subregulation 9 (2):

After “the signatory”, insert “or party to the bullion transaction”.

7.4 Subregulation 9 (3):

After “signatory”, insert “or party to the bullion transaction”.

8. Regulation 10 (Particulars to be recorded)

8.1 Paragraph 10 (1) (c):

After “signatory”, insert “or party to the bullion transaction”.

9. Regulation 11A (Account information in relation to trust accounts)

9.1 Paragraph 11A (2) (a):

Omit “an exempt”, substitute “a”.

10. Regulation 11B (Period for the purposes of section 18 of the Act)

10.1 Subregulation 11B (1):
Omit the subregulation.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on *1* 1997.5 November/
2. Statutory Rules 1990 No. 36 as amended by 1990 Nos. 162, 340 and 341; 1991 Nos. 7, 89 and 166; 1992 Nos. 90, 320 and 423; 1997 No. 63.