



Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2011 (No. 6)

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

I, John Lance Schmidt, Chief Executive Officer, Australian Transaction Reports and Analysis Centre, make this Instrument under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Dated 27 September 2011

[Signed]
John Lance Schmidt
Chief Executive Officer
Australian Transaction Reports and Analysis Centre

1 Name of Instrument

This Instrument is the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2011 (No. 6)*.

2 Commencement

This Instrument commences on the day after it is registered.

3 Amendment

- (a) Schedule 1 amends the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2010 (No. 3)*;
- (b) Schedule 2 amends the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*.

Schedule 1 Amendment of the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2010 (No. 3)*.

1. Amendment of Schedule 3

Item 1. For subparagraph 19.3(17) *substitute*

- 19.3 (17) (a) where a threshold transaction occurs in the circumstances specified in subparagraph 19.3(15) but
- (i) the transaction involves a deposit service carried out in non-face to face circumstances by the individual;
 - (ii) the transaction relates to the provision of the designated service described in item 51 or item 53 of table 1 in subsection 6(2) of the AML/CTF Act by the individual;
or
 - (iii) the transaction relates to the provision of the designated service described in item 51 or item 53 of table 1 in subsection 6(2) of the AML/CTF Act;
- and

- (A) that designated service is provided under the terms of an agreement for services, between the provider of the item 51 or 53 designated service and the customer, and
 - (B) under that agreement, the item 51 or item 53 designated service must be scheduled 5 business days or more before the designated service is provided; then
- (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), (ii) or (iii) apply.

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

Schedule 2 **Amendment of the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*.**

After Chapter 52

Insert

Chapter 53 **Exemption from threshold transaction reporting for certain designated services relating to Australian Government Entities and authorised deposit-taking institutions**

- 53.1. These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 44(3) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
- 53.2. Subject to the conditions in paragraph 3, section 43 of the AML/CTF Act does not apply to the following designated services which involve a threshold transaction:
- (1) item 51 of table 1 in subsection 6(2) in the AML/CTF Act; or
 - (2) item 53 of table 1 in subsection 6(2) in the AML/CTF Act.
- 53.3. The designated service must relate wholly to one or more of the following:
- (1) a transaction between an Australian Government Entity and an ADI with which it holds an account;
 - (2) a transaction between one Australian Government Entity and another Australian Government Entity;
 - (3) an intra-Australian Government Entity transaction; or
 - (4) an intra-ADI transaction, where all the service points (if any) relevant to that transaction are wholly owned and operated by that ADI.
- 53.4. In this Chapter:
- (1) ‘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;
- (2) 'service points' means a point where a designated service is provided by an ADI, and includes:
- (a) a branch;
 - (b) an automated teller machine; or
 - (c) a night or express deposit facility.

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 National Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.privacy.gov.au> or call 1300 363 992.