



Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2012 (No. 5)

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 18th December 2012

[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 2012 (No. 5)*.

2 Commencement

Schedule 1 of this Instrument commences on the day after it is registered.

3 Amendment

Schedule 1 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 Instrument 2007 (No. 1)*.

1. Chapter 11

Item 1 After paragraph 11.4 insert

11.5 For subsection 247(2) of the AML/CTF Act the following is specified:

- (1) for a reporting entity that in the 2012 calendar year was a registered remittance affiliate or a registered remittance network provider and provided only the designated services described in items 31, 32 or 32A of table 1 in subsection 6(2) of the AML/CTF Act, subsections 47(1)(a) and 47(1)(b) do not apply in relation to:
 - (a) a 2012 reporting period as specified in subparagraph 11.2(4); or
 - (b) a 2012 lodgment period as specified in subparagraph 11.3(2).

Item 2 For paragraph 11.5

Renumber as 11.6

Item 3 For paragraph 11.6

Omit

“(a)”

Insert

“(1)”

Item 4 After paragraph 11.6

Omit

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.

Substitute

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.oaic.gov.au> or call 1300 363 992.

2. Chapter 41

Item 1 Repeal Chapter 41

Item 2 After Chapter 40 insert

CHAPTER 41 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 that interest.

41.4 In this Chapter:

- (1) 'member' is the person to whom a designated service is 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*.

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