



## **Australian Transaction Reports and Analysis Centre Industry Contribution Determination 2015 (No. 2)<sup>1</sup>**

*Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011*

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I, MICHAEL KEENAN, Minister for Justice, make this Determination under subsection 9(1) of the *Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011*.

Dated 19th October 2015

[signed]

MICHAEL KEENAN  
Minister for Justice

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<sup>1</sup> All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.comlaw.gov.au>.

## 1 Name of Determination

This Determination is the *Australian Transaction Reports and Analysis Centre Industry Contribution Determination 2015 (No. 2)*.

## 2 Commencement

This Determination commences on the day after it is registered.

## 3 Definitions

(1) In this Determination:

**the Act** means the *Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011*.

**ADI** (short for authorised deposit-taking institution) has the same meaning as in the AML/CTF Act.

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

**acquired** refers to the acquisition of the business of an entity.

**AUSTRAC** has the same meaning as in the AML/CTF Act.

**AUSTRAC CEO** has the same meaning as in the AML/CTF Act.

**census day**, in relation to the financial year, has the same meaning as in the Act.

**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 – the total profit before tax, depreciation and amortisation (PBTDA) not adjusted for significant items; or
- (c) in any other case – the total earnings before tax, interest, depreciation and amortisation (EBITDA) not adjusted for significant items;

of the liable 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 1: The above definition recognises that liable entities may have annual accounting periods that end on other than 30 June in any year.

Note 2: The operation of the above definition in relation to liable entities that are foreign companies or subsidiaries of foreign companies is affected by subitem (2) of this item 3.

**financial year** means the financial year beginning on 1 July 2015.

**foreign company** has the same meaning as in the *Corporations Act 2001*.

**group of liable entities** means all liable entities that are related bodies corporate.

**liable entity**, in relation to the financial year, has the same meaning as in the Act.

**liable report**, in relation to a liable entity, means one of the following reports given to the AUSTRAC CEO during the calendar year beginning on 1 January 2014:

- (a) a report given by the liable entity under subsections 43(2) or 45(2) of the AML/CTF Act (including a report given by the liable entity in the form required for subsections 43(2) or 45(2), whether or not such a report was required to be given under either of those subsections); or
- (b) a report of the type referred to in paragraph (a) that was given by another liable entity that, as at the time the report was given, was a remittance affiliate of the liable entity; or
- (c) a report of the type referred to in paragraph (a) that was given by another liable entity that, prior to the census day, was acquired by the liable entity.

**National Electricity Rules** means the Rules made under the *National Electricity Law* set out in the Schedule to the *National Electricity (South Australia) Act 1996* (SA).

**previous financial year** means the financial year beginning on 1 July 2014.

**registered financial corporation** has the same meaning as *registered entity* in the *Financial Sector (Collection of Data) Act 2001*.

**related bodies corporate** has the same meaning as in the *Corporations Act 2001*.

**remittance affiliate** means a leviable entity that:

- (a) 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 persons of a kind referred to in item 32A of that table operated by another leviable entity.

**subsidiary** has the same meaning as in the *Corporations Act 2001*.

- (2) A reference in this Determination to the total profit or total earnings of a leviable entity that is a foreign company or a subsidiary of a foreign company is a reference to the total profit or total earnings of the leviable entity which are derived from operations in Australia.

#### **4 Amount of instalment of levy**

- (1) Subitem (2) has effect subject to subitems (3), (4), (5), (6) and (7).
- (2) For subsection 9(1) of the Act, the amount of the instalment of levy payable by a leviable entity for the financial year is to be calculated in accordance with the following formula:

$$\text{earnings component} \quad + \quad \begin{array}{l} \text{transaction reporting} \\ \text{component} \end{array}$$

##### *Payment threshold*

- (3) If the amount calculated in relation to a leviable entity under subitem (2) is less than \$1,000, then, for subsection 9(1) of the Act, the amount of the instalment of levy payable by the leviable entity for the financial year is nil.

##### *Maximum payment amount*

- (4) For subsection 9(1) of the Act, the amount of the instalment of levy payable by a leviable entity for the financial year is:

- (a) for a liable entity that is not a part of a group of liable entities and has earnings of greater than \$5,000,000,000 – \$9,361,237.15; or
- (b) for a liable entity that is part of a group of liable entities the total earnings for which are greater than \$5,000,000,000 – \$9,361,237.15 divided by the number of liable entities in the group.

*Other*

- (5) For subsection 9(1) of the Act, the amount of the instalment of levy payable for the financial year by a liable entity that, in the previous financial year:
  - (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;is nil.
- (6) For subsection 9(1) of the Act, the amount of the instalment of levy payable for the financial year by a liable entity that, on the census day for the financial year, was a 'Market Generator' within the meaning of the National Electricity Rules, is nil.
- (7) For subsection 9(1) of the Act, the amount of the instalment of levy payable for the financial year by a liable entity that is a body corporate established for a public purpose by an Act passed by the Parliament of the Commonwealth is nil.

**5 Earnings component**

- (1) Subitem (2) has effect subject to subitems (3) and (4).
- (2) The earnings component for a liable entity is:
  - (a) for a liable entity that is not part of a group of liable entities – 0.03 per cent of the earnings for the liable entity; or
  - (b) for a liable entity that is part of a group of liable entities – 0.03 per cent of the total earnings for the group of liable entities, divided by the number of liable entities in the group.

*Earnings component threshold*

- (3) The earnings component for a liable entity:
- (a) that is not part of a group of liable entities and has earnings of less than \$100,000,000; or
  - (b) that is part of a group of liable entities the total earnings for which are less than \$100,000,000;

is nil.

*Earnings component cap*

- (4) If the earnings component calculated for a liable entity under subitem (2) is greater than \$1,000,000, then:
- (a) for a liable entity that is not part of a group of liable entities – the earnings component for the liable entity is \$1,000,000; or
  - (b) for a liable entity that is part of a group of liable entities – the earnings component for the liable entity is \$1,000,000, divided by the number of liable entities in the group.

**6 Transaction reporting component**

- (1) Subitem (2) has effect subject to subitem (3).
- (2) The transaction reporting component for a liable entity is to be calculated in accordance with the following formula:

$$\begin{array}{rcl} 1 \text{ cent for each} & & 0.0010934 \text{ per cent of the value} \\ \text{liable report} & + & \text{of the liable report} \end{array}$$

- (3) If a liable report of the type referred to in paragraph (b) or (c) of the definition of *liable report* is used in the calculation of a liable entity's transaction reporting component, the same report cannot be used in the calculation of any other liable entity's transaction reporting component.
- (4) In this item, a reference to the *value of a liable report* is a reference to the transaction to which the liable report relates.