



# **Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2018 (No. 2)**

*Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

I, Nicole Rose, 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 March 2018

[signed]  
Nicole Rose PSM  
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 2018 (No. 2)*.

**2 Commencement**

This Instrument commences on 3 April 2018.

**3 Amendment**

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

**Schedule 1—Amendments**

***Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)***

**1 Subparagraph 3.1.2**

After “anti-money laundering and counter-terrorism financing regulation” (wherever occurring), insert “and supervision”.

**2 Paragraph 3.1.5**

After “correspondent banking relationship” (wherever occurring), insert “that involves a vostro account”.

**3 Paragraph 3.2.2**

Omit “nostro or vostro accounts”, substitute “a vostro account”

**4 Part 4.14**

Repeal the Part, substitute:

**Part 4.14 Exemptions relating to the identification of beneficial owners and politically exposed persons**

4.14.1 The requirements in Parts 4.12 and 4.13 of these Rules do not apply to a reporting entity which:

- (1) provides a designated service of the type specified in Column 1; and

- (2) is exempt from Division 4 of Part 2 of the AML/CTF Act in accordance with the circumstances and conditions of the AML/CTF Act or AML/CTF Rules specified in Column 2;

of the following table:

<b>Column 1 – Relevant designated service in subsection 6(2), 6(3) or 6(4) of the AML/CTF Act</b>	<b>Column 2 – AML/CTF Act and AML/CTF Rules references relevant to the exemptions</b>
<b>Multiple tables – Financial Services, Bullion and Gambling services</b>	
Any of the designated services in tables 1, 2 or 3	Chapter 28 – Applicable customer identification procedures in certain circumstances – assignment, conveyance, sale or transfer of businesses
Any of the designated services in tables 1, 2, or 3	Chapter 50 – Exemption from applicable customer identification procedure in certain circumstances
Item 50 of table 1 or item 14 of table 3	Paragraph 14.4 in Chapter 14 – Thresholds for certain designated services
<b>Table 1 – Financial Services</b>	
Any of the designated services	Chapter 66 – Applicable customer identification procedures in certain circumstances – compulsory partial or total transfer of business made under the <i>Financial Sector (Business Transfer and Group Restructure) Act 1999</i>
Items 40, 42 or 44	Subsection 39(6)
Items 2 or 3	Chapter 35 – Exemption from applicable customer identification procedures for correspondent banking relationships
Items 6 or 7	Chapter 39 – Exemption from applicable customer identification procedures – premium funding loans for a general

	insurance policy
Items 6, 7, 8, 31 and 32	Chapter 45 – Debt collection
Item 17	Paragraph 14.2 in Chapter 14 – Thresholds for certain designated services
Items 25 or 26	Paragraph 14.3 in Chapter 14 – Thresholds for certain designated services
Item 33	Chapter 38 – Exemption from applicable customer identification procedures for the sale of shares for charitable purposes
Item 33	Chapter 49 – International Uniform Give-Up Agreements
Items 35 or 46	Chapter 67 – Warrants
Item 43(a)	Part 41.2 in Chapter 41 – Exemption from applicable customer identification procedures – cashing out of low value superannuation funds and for the Departing Australia Superannuation Payment
Items 43 or 45	Part 41.3 in Chapter 41 – Exemption from applicable customer identification procedures – cashing out of low value superannuation funds and for the Departing Australia Superannuation Payment
<b>Table 2 – Bullion</b>	
Items 1 or 2	Chapter 33 – Applicable customer identification procedure for purchases and sales of bullion valued at less than \$5000
<b>Table 3 – Gambling services</b>	
Items 5, 6, 9 and 10	Chapter 52 – Persons who are licensed to operate no more than 15 gaming machines

**5 Paragraph 10.2.4**

Omit “item 4”, substitute “items 4, 7, or 8”.

**6 At the end of paragraph 10.2.6**

Add:

; or

- (2) a designated service of a kind described in items 7 or 8 of table 3 of section 6 where that service involves an amount less than \$10,000.

**7 Paragraph 12.3**

Repeal the paragraph.

**8 After subparagraph 18.2(21)**

Insert:

(21A) where the designated service involves digital currency:

- (i) the denomination or code of the digital currency and the number of digital currency units;
- (ii) the value of the digital currency involved in the transaction, expressed in Australian dollars, if known;
- (iii) a description of the digital currency including details of the backing asset or thing, if known;
- (iv) the Internet Protocol (IP) address information of the first person, if known;
- (v) the social media identifiers of the first person, if known;
- (vi) the unique identifiers relating to the digital currency wallet(s) of the first person, if known; and
- (vii) the unique device identifiers of the first person relating to or arising from the transaction, if known;

**9 After paragraph 18.3**

Insert:

18.4 In this Chapter:

- (1) ‘Digital currency wallet’ means any service that allows a person to send, request, receive, or store digital currency.

- (2) 'Unique device identifiers' includes Media Access Control (MAC) addresses, International Mobile Equipment Identity (IMEI), International Mobile Subscriber Identity (IMSI) numbers, and secure element ID (SEID) numbers.

**10 Subparagraph 19.3(8)(b)**

Repeal the subparagraph, substitute:

- (b) where the threshold transaction involves digital currency:
- (i) the denomination or code of the digital currency and the number of digital currency units;
  - (ii) the value of the digital currency involved in the transaction, expressed in Australian dollars, if known;
  - (iii) a description of the digital currency including details of the backing asset or thing, if known;
  - (iv) the name(s) of the recipient(s);
  - (v) the full address(es) of the recipient(s) (not being a post box address), if known;
  - (vi) the date(s) of birth of the recipient(s), if known;
  - (vii) a description of the purpose of the transfer(s);
  - (viii) if the purpose of the transfer(s) is to:
    - (a) enable a cheque to be provided to the customer using all or part of the digital currency transferred by the customer; or
    - (b) enable the customer to receive digital currency in exchange for all or part of a cheque produced by the customer to the reporting entity;
- the following details:
- (c) the name of the drawer;
  - (d) the name of the drawee; and
  - (e) the amount of the cheque;
  - (ix) the Internet Protocol (IP) address information of the customer and the recipient(s), if known;

- (x) the email address of the customer and the recipient(s), if known;
- (xi) the mobile phone number of the customer and the recipient(s), if known;
- (xii) the social media identifiers of the customer and the recipient(s), if known;
- (xiii) the unique identifiers relating to the digital currency wallet(s) of the customer and the recipient(s), if known;
- (xiv) the unique device identifiers of the customer and the recipient(s), if known;

## **11 Subparagraph 19.3(17)**

Repeal the subparagraph, substitute:

- 19.3 (17) (a) where a threshold transaction occurs in the circumstances specified in subparagraph 19.3(15) but the transaction:
- (i) involves a deposit service carried out in non-face to face circumstances by the individual; or
  - (ii) relates to the provision of a service of collecting, holding, or delivery (including of pay-rolls) of physical currency, collected from, held on behalf of, or delivered to a person in the course of carrying on a business of collecting, holding, or delivering physical currency, and the physical currency was not collected:
    - (A) by the provider of the service as consideration for the supply of goods or services (within the meaning of the *Competition and Consumer Act 2010*) other than the service of collecting or holding physical currency; or
    - (B) as a donation to a registered charity; 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) or (ii) apply.

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

## **12 Paragraph 19.6**

Repeal the paragraph, substitute:

19.6 In this Chapter:

- (1) ‘Digital currency wallet’ means any service that allows a person to send, request, receive, or store digital currency.
- (2) ‘Non-face to face circumstances’ includes the use of an automated teller machine or night or express deposit facility.
- (3) ‘Unique device identifiers’ includes Media Access Control (MAC) addresses, International Mobile Equipment Identity (IMEI), International Mobile Subscriber Identity (IMSI) numbers, and secure element ID (SEID) numbers.

## **13 Subparagraph 37.2(3)**

Omit “Account; or”, substitute “Account”.

## **14 Subparagraph 37.2(4)**

Repeal the subparagraph.

## **15 Chapter 44**

Repeal the Chapter.

## **16 Paragraph 45.3**

Omit all the words after subparagraph (e).

## **17 Chapter 53**

Repeal the Chapter.

## **18 Paragraph 57.2**

Omit “or people smuggling risk”, substitute “people smuggling or other serious crime risk”.

## **19 Subparagraph 70.10(2)**

Omit “or people smuggling risk”, substitute “people smuggling or other serious crime risk”.



## 20 Paragraph 74.2

Repeal the paragraph, substitute:

- 74.2. Subject to paragraph 74.3, Divisions 2 to 7 of Part 2, Divisions 2 to 5 of Part 3 and Parts 3A, 5, 6, 7 and 10 of the AML/CTF Act do not apply to a designated service that:
- (1) is of a kind described in items 33, 34, or 46 of Table 1 in subsection 6(2) of the AML/CTF Act; or
  - (2) is of a kind described in items 1 or 2 of Table 2 in subsection 6(3) of the AML/CTF Act.

## 21 At the end of Chapter 75

Add:

### CHAPTER 76 Digital Currency Exchange Register

- 76.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for the purposes of Part 6A of that Act. Sections 136 and 137 of the AML/CTF Act apply to each paragraph in this Chapter. These Rules come into effect on the date that section 76B of the AML/CTF Act comes into effect.

### Registration on the Digital Currency Exchange Register

#### *Applications for registration*

- 76.2 An application for a person (the applicant) to be registered on the Digital Currency Exchange Register must:
- (1) be made by an individual authorised to act on behalf of the applicant;
  - (2) be made using the approved form; and
  - (3) contain the relevant registrable details as prescribed by that form, including:
    - (a) identification and, where applicable, registration details of the applicant and each of the applicant's key personnel;
    - (b) details regarding the nature, legal form, status, and structure of the applicant's business (including in relation to beneficial ownership and control); and
    - (c) whether the applicant or any of its key personnel have been:
      - i. charged, prosecuted, or convicted in relation to money laundering, terrorism financing, terrorism, people

smuggling, fraud, a serious offence, or an offence under the AML/CTF Act or FTR Act; or

- ii. the subject of any adversely determined civil or criminal proceedings or enforcement action in relation to the management of an entity, or their commercial or professional activities.

#### *Determining applications for registration*

76.3 In determining whether it is appropriate to register a person the AUSTRAC CEO must have regard to:

- (1) whether the applicant has complied with the application requirements under paragraph 76.2; and
- (2) the information contained in the application, including whether there are reasonable grounds to suspect that any information or document provided by the applicant is false or misleading (whether by inclusion or omission) in a material particular.

### **Renewal of registration**

#### *Applying for renewal of registration*

76.4 An application for renewal of registration must be made within the 90-day period ending on the day on which their registration would otherwise cease under section 76H(1)(c) of the AML/CTF Act (being 3 years after the day on which registration took effect).

76.5 An application for renewal must be made using the approved form and must contain all relevant information prescribed by that form, including a declaration that:

- (1) the person has complied with the requirements of section 76P of the AML/CTF Act, where applicable; and
- (2) the person's enrolment and registration details as they appear on both the Reporting Entities Roll and the Digital Currency Exchange Register are current and correct.

#### *Provisional continuation of registration*

76.6 Provided that an application for renewal of registration has complied with the requirements in paragraphs 76.4 and 76.5, the person's registration will continue until the date on which the decision of the AUSTRAC CEO takes effect, as specified in the notice provided under paragraph 76.9.

#### *Deciding applications for renewal*

- 76.7 If an application for renewal of registration has been made, the AUSTRAC CEO must renew the registration for a period of three years if satisfied that it is appropriate to do so.
- 76.8 In deciding whether it is appropriate to renew a person's registration, the AUSTRAC CEO must have regard to:
- (1) whether the applicant has complied with the requirements under paragraph 76.5;
  - (2) the information contained in the application, including whether there are reasonable grounds to suspect that any information or document provided by the applicant is false or misleading (whether by inclusion or omission) in a material particular; and
  - (3) whether the renewal of registration may involve significant money laundering, financing of terrorism, or other serious crime risk.
- 76.9 As soon as practicable after making a decision regarding a renewal application, the AUSTRAC CEO must provide the applicant with written notice of:
- (1) the terms of the decision (including any conditions that the renewed registration is subject to); and
  - (2) if the decision is not to renew registration:
    - (a) the date the decision takes effect;
    - (b) the reasons for the decision; and
    - (c) the particulars of the person's right to have the decision reviewed.

*Note: A decision not to renew registration is declared to be a reviewable decision for the purposes of section 233B of the AML/CTF Act.*

- 76.10 A failure to comply with the requirements of paragraph 0 does not affect the validity of the decision.

### **Suspension of registration**

- 76.11 The AUSTRAC CEO may suspend a person's registration on the Digital Currency Exchange Register for a specified period of time, with or without prior notice, if satisfied that it is appropriate to do so.
- 76.12 In deciding whether it is appropriate to suspend a person's registration, and without limiting the matters that may be considered, the AUSTRAC CEO may have regard to:
- (1) whether the person or any of its key personnel have been:

- (a) charged, prosecuted, or convicted in relation to money laundering, terrorism financing, terrorism, people smuggling, fraud, a serious offence, or an offence under the AML/CTF Act or FTR Act;
  - (b) the subject of a civil penalty order made under the AML/CTF Act; or
  - (c) the subject of any adversely determined civil or criminal proceedings or enforcement action in relation to the management of an entity, or their commercial or professional activities; and
- (2) whether there are reasonable grounds to believe that:
- (a) any information or document provided under this Chapter was false or misleading (whether by inclusion or omission) in a material particular;
  - (b) the continued registration of the person involves, or may involve, significant money laundering, financing of terrorism, or other serious crime risk; or
  - (c) the person has contravened a condition of registration imposed under section 76G of the AML/CTF Act.

76.13 The AUSTRAC CEO may also suspend a person's registration if reasonable grounds exist on which to commence an action to cancel the registration of the person under section 76J of the AML/CTF Act, and that action has not been completed.

76.14 As soon as practicable after making a decision to suspend a person's registration, the AUSTRAC CEO must provide the applicant with written notice of:

- (1) the terms of the decision; and
- (2) if the decision is to suspend registration:
  - (a) the period of suspension;
  - (b) the reasons for the decision; and
  - (c) the particulars of the person's right to have the decision reviewed.

*Note:* A decision to suspend registration is declared to be a reviewable decision for the purposes of section 233B of the AML/CTF Act.

76.15 A failure to comply with the requirements of paragraph 0 does not affect the validity of the decision.

## **Cancellation of registration**

76.16 In determining whether it is appropriate to cancel a person's registration, and without limiting the matters that may be considered, the AUSTRAC CEO may consider the matters outlined in paragraph 0.

## **Review of reviewable decisions**

76.17 An application to have a decision reviewed does not affect the operation of the decision or prevent the taking of action to implement the decision.

## **Registered persons to update and correct information**

76.18 If a person registered on the Digital Currency Exchange Register becomes aware:

- (1) of a change that materially affects any information previously provided under this Chapter; or
- (2) that any information or document provided under this Chapter is incorrect, incomplete, or misleading in a material respect,

the person must advise the AUSTRAC CEO and provide updated information in accordance with subsection 76P(2) of the AML/CTF Act.

*Note: Subsection 76P(2) of the AML/CTF Act provides that a person registered on the Digital Currency Exchange Register who is required to advise the AUSTRAC CEO of a change in circumstances or a matter must do so in accordance with the approved form, and within 14 days of the change in circumstances or the matter arising.*

## **Correction of entries on the Register**

76.19 If the AUSTRAC CEO has reasonable grounds to believe that an entry on the Digital Currency Exchange Register is incorrect, incomplete, or misleading, the AUSTRAC CEO may correct or complete the entry.

76.20 The AUSTRAC CEO must give written notice to the affected person as soon as practicable after amending an entry, specifying:

- (1) the changes that were made to the entry and the reasons for amendment; and
- (2) the date on which the changes to the entry take effect.

## **Publication of information**

76.21 The AUSTRAC CEO may publish, in any manner or form that is considered appropriate, any or all of the following:

- (1) the Digital Currency Exchange Register, in whole or in part;

- (2) specified information entered on the Digital Currency Exchange Register;
- (3) details of persons whose applications for registration or renewal of registration on the Digital Currency Exchange Register have been refused;
- (4) details of persons whose registration on the Digital Currency Exchange Register has been suspended, and the date the suspension took effect; and
- (5) details of persons whose registration on the Digital Currency Exchange Register has been cancelled, and the date the cancellation took effect.

## Definitions

76.22 In this Chapter:

- (1) ‘approved’ means approved by the AUSTRAC CEO, in writing, for the purposes of the provision in which the term occurs.
- (2) ‘authorised individual’ means a natural person who is:
  - (a) a beneficial owner; or
  - (b) an officer as defined in section 9 of the *Corporations Act 2001* or;
  - (c) an employee of the applicant who has been authorised in writing by an applicant to act in this capacity;
- (3) ‘key personnel’ means:
  - (a) in the case of a company, corporation sole or body politic, is a natural person that is;
    - i. a beneficial owner; or
    - ii. an officer as defined in section 9 of the *Corporations Act 2001*, or an employee or agent of the body corporate with duties of such responsibility that his or her conduct may fairly be assumed to represent the body corporate's policy;
  - (b) in the case of an individual, trust or partnership, is a natural person that is an employee or agent of the individual, trust or partnership with duties of such responsibility that his or her conduct may fairly be assumed to represent the policy of the individual, trust or partnership;
- (4) ‘serious offence’ means:

- (a) an offence against a law of the Commonwealth, or a law of a State or Territory, punishable on indictment by imprisonment for 2 or more years; or
- (b) an offence against a law of a foreign country constituted by conduct that, if it had occurred in Australia, would have constituted a serious offence.

*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 Australian 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.*