



## **Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2020 (No. 2)**

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I, Nicole Rose, Chief Executive Officer, Australian Transaction Reports and Analysis Centre, make these Rules under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Dated 6 May 2020

[signed]

Nicole Rose PSM  
Chief Executive Officer  
Australian Transaction Reports and Analysis Centre

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## **1 Name**

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2020 (No. 2)*.

## **2 Commencement**

This instrument commences the day after registration.

## **3 Authority**

This instrument is made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

## **4 Schedules**

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

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

#### 1 Chapter 4

Repeal Part 4.15, substitute:

#### **Part 4.15 Procedure to follow where a customer cannot provide satisfactory evidence of identity**

*Reporting entities may rely on Part 4.15 in limited and exceptional cases where a person does not possess, and is unable to obtain, the necessary information or evidence of identity. This may include: individuals whose birth was not registered, people who are homeless, undocumented arrivals in Australia, people living in remote areas, people who are transgender or intersex, people affected by natural disasters, people with limited access to identity documents (for example because they were raised in institutional or foster care), people with limited participation in society, and young people or those over 18 who have not established a ‘social footprint’ in the community.*

*Reporting entities may also rely on Part 4.15 where a person possesses, but is unable to produce or provide, the necessary information or evidence of identity due to measures implemented or recommended by government, or reasonable measures that a person or reporting entity has adopted, to prevent the spread of COVID-19. This may include customers who are in self-isolation, businesses that have temporarily shut down, and reporting entities that have closed offices/branches and restricted customer visits to limit face-to-face interaction with customers.*

4.15.1 If a reporting entity is unable to establish the identity of a customer using the applicable customer identification requirements specified in Chapter 4 of the AML/CTF Rules because the customer does not possess, and is unable to obtain, the necessary information or evidence of identity, then it may use alternative identity proofing processes, in accordance with its risk-based systems and controls, to do so.

#### *Alternative identity proofing processes during the COVID-19 Pandemic*

4.15.1A If a reporting entity is unable to establish the identity of a customer using the applicable customer identification requirements specified in Chapter 4 of the AML/CTF Rules because the customer possesses, but is unable to produce or provide, the necessary information or evidence of identity due to COVID-19 Pandemic measures, then it may use alternative identity proofing processes, in accordance with its risk-based systems and controls, to do so.

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*Note: Alternative identify proofing processes could include, but are not limited to, acceptance of multiple types of secondary identification documents where normally a primary identification document would be required.*

4.15.2 If a reporting entity is unable to establish the identity of a customer in accordance with paragraph 4.15.1 or 4.15.1A, then it may accept a self-attestation from the customer certifying that the information provided in relation to their identity is true and correct.

4.15.3 A reporting entity must apply appropriate levels of ongoing customer due diligence in order to identify, mitigate and manage any ML/TF risk associated with customer identities established using self-attestation.

4.15.4 A reporting entity must not rely on a self-attestation if it knows or has reason to believe that it is incorrect or misleading.

*Note: Customers and reporting entities seeking to rely on self-attestation to establish identity should be aware that criminal or civil penalties may apply under Part 12 of the AML/CTF Act for providing false or misleading information, producing false or misleading documents, and for providing or receiving a designated service using a false customer name.*

*Alternative verification processes during the COVID-19 Pandemic*

4.15.5 If a reporting entity is required, in accordance with its applicable customer identification procedure, to verify information based on the original, or a certified copy or certified extract, of a document but cannot do so because of COVID-19 Pandemic measures, then it may rely on a copy of the document in accordance with its risk-based systems and controls.

4.15.6 In this Part, ‘COVID-19 Pandemic measures’ means any:

(1) measures implemented or recommended by an Australian government body;

(2) reasonable measures adopted by a reporting entity; or

(3) reasonable measures adopted by a person;

to prevent the spread of COVID-19.

*Note: ‘Reasonable measures’ include those adopted in a foreign country where the person, or a permanent establishment of a reporting entity or subsidiary, is located.*