



Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment (Nominee of Custodian) Instrument 2024

I, Brendan Thomas, Chief Executive Officer, Australian Transaction Reports and Analysis Centre, make the following legislative instrument.

Dated 13 November 2024

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 (Nominee of Custodian) Instrument 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after registration.	
2. Schedule 1	The day after registration.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

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

1 Chapter 4

Item 1

Repeal subparagraph 4.4.3(5)(d), substitute:

- (d) the customer is either:
 - (A) a custodian; or
 - (B) a nominee of a custodian.

Note: 'Custodian' and 'nominee of a custodian' are defined in paragraph 4.4.19 of these Rules.

Item 2

Repeal subparagraph 4.4.5(5)(d), substitute:

- (d) the customer is either:
 - (A) a custodian; or
 - (B) a nominee of a custodian.

Note: 'Custodian' and 'nominee of a custodian' are defined in paragraph 4.4.19 of these Rules.

Item 3

Repeal subparagraph 4.4.18, substitute:

Trustees who are either custodians or nominees of a custodian

4.4.18 An AML/CTF program need not include the requirements specified in the following AML/CTF Rules in relation to the provision by the reporting entity of designated services to a customer who is either:

- (A) a custodian or;
- (B) a nominee of a custodian:
 - (1) subparagraph 4.4.2(2); and
 - (2) subparagraph 4.4.9(2); and
 - (3) in so far as they relate to the collection, verification, updating or review (as applicable) of information on the underlying customers to whom the custodian or nominee

of a custodian is providing a custodial or depository service:

- (a) Parts 4.12 and 4.13; and
- (b) paragraphs 15.2 and 15.3; and
- (c) subparagraphs 15.9(2), 15.10(1)(b), 15.10(1)(c), 15.10(2) and 15.10(4).

Note 1: The requirements in Parts 4.12 and 4.13 of the AML/CTF Rules continue to apply to reporting entities in relation to the collection and verification of information on the custodian or nominee of a custodian customer.

Note 2: The requirements in paragraphs 15.2 and 15.3 and subparagraphs 15.9(2), 15.10(1)(b), 15.10(1)(c), 15.10(2) and 15.10(4) of the AML/CTF Rules continue to apply to reporting entities in relation to the collection, verification, re-verification, clarification, updating, review and detailed analysis of:

- (a) *KYC information of customers that are either custodians or nominees of custodians; and*
- (b) *beneficial owner information, other than information relating to the underlying customers of either custodians or nominees of custodians.*

Item 4

Repeal subparagraphs 4.4.19(4) and 4.4.19(5), substitute:

- (4) 'nominee of a custodian' means a related body corporate of a custodian provided:
 - (a) the appointing custodian meets the criteria specified in subparagraph 4.4.19(1) of these Rules; and
 - (b) the nominee of the custodian gives the relevant reporting entity certification from the appointing custodian that the former:
 - (i) satisfies the geographical link or is on the Reporting Entity Roll; and
 - (ii) has carried out all applicable customer identification procedures in relation to their underlying customers.
- (5) 'providing a custodial or depository service' has the same meaning as in section 5 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* and includes providing a custodial or depository service as part of an IDPS or MDA service.

(6) ‘Reporting Entities Roll’ has the meaning given by section 51C of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

2 Chapter 15

Item 1

Repeal subparagraph 15.1, substitute:

15.1 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* (the AML/CTF Act) for paragraphs 36(1)(b), 84(2)(c) and 85(2)(c) of that Act. Sections 136 and 137 of the AML/CTF Act apply to each paragraph of this Chapter. The requirements set out in these Rules do not apply in relation to a permanent establishment in a foreign country at or through which a reporting entity provides designated services. This Chapter commences on 1 June 2014.

KYC information and Beneficial Owner Information

Note: Reporting entities that provide designated services to customers who are custodians or nominees of custodians are exempt from the requirements specified in paragraphs 15.2 and 15.3 of these Rules in relation to certain beneficial owner information. These exemptions are set out in paragraph 4.4.18 of Chapter 4 of these Rules.

Item 2

Repeal subparagraph 15.7, substitute:

15.7 The transaction monitoring program should have regard to complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or visible lawful purpose.

Enhanced customer due diligence program

Note: Reporting entities that provide designated services to customers who are custodians or nominees of custodians are exempt from the requirements specified in subparagraphs 15.9(2), 15.10(1)(b), 15.10(1)(c), 15.10(2) and 15.10(4) of these Rules in relation to underlying customers of custodians or nominees of custodians. These exemptions are set out in paragraph 4.4.18 of Chapter 4 of these Rules.