

2010-2011

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Australian Transaction Reports and  
Analysis Centre Supervisory Cost  
Recovery Levy Bill 2011**

**No.     , 2011**

*(Attorney-General)*

**A Bill for an Act to impose a levy on persons  
regulated by the Australian Transaction Reports  
and Analysis Centre, and for related purposes**



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## Contents

1	Short title.....	1
2	Commencement.....	1
3	Act binds the Crown.....	2
4	External Territories.....	2
5	Extraterritorial application.....	2
6	Act does not impose levy on property of a State .....	3
7	Definitions.....	3
8	Imposition of AUSTRAC cost recovery levy .....	5
9	Amount of levy.....	5
10	Calculation of indexation factor .....	6



1     **A Bill for an Act to impose a levy on persons**  
2     **regulated by the Australian Transaction Reports**  
3     **and Analysis Centre, and for related purposes**

4     The Parliament of Australia enacts:

5     **1 Short title**

6                     This Act may be cited as the *Australian Transaction Reports and*  
7                     *Analysis Centre Supervisory Cost Recovery Levy Act 2011*.

8     **2 Commencement**

9                     (1) Each provision of this Act specified in column 1 of the table  
10                     commences, or is taken to have commenced, in accordance with

## Section 3

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1 column 2 of the table. Any other statement in column 2 has effect  
2 according to its terms.

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### Commencement information

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Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Sections 3 to 10	The later of: (a) 1 July 2011; and (b) the day this Act receives the Royal Assent.	

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4 Note: This table relates only to the provisions of this Act as originally  
5 enacted. It will not be amended to deal with any later amendments of  
6 this Act.

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

## 10 **3 Act binds the Crown**

11 This Act binds the Crown in each of its capacities.

## 12 **4 External Territories**

13 This Act extends to every external Territory.

## 14 **5 Extraterritorial application**

15 This Act extends to acts, omissions, matters and things outside  
16 Australia.

1       **6 Act does not impose levy on property of a State**

- 2               (1) This Act does not impose a tax on property of any kind belonging  
3               to a State.
- 4               (2) In this section, *property of any kind belonging to a State* has the  
5               same meaning as in section 114 of the Constitution.

6       **7 Definitions**

- 7               (1) In this Act:

8               *census day*, for a financial year, means:

- 9               (a) for the 2011-12 financial year—the day the AUSTRAC CEO  
10              determines, by legislative instrument, to be the census day; or  
11              (b) for a later financial year:  
12                  (i) 1 July in that financial year; or  
13                  (ii) if the AUSTRAC CEO determines, by legislative  
14                  instrument, another day in that financial year—that day.

15              A legislative instrument under paragraph (a) may, despite  
16              subsection 12(2) of the *Legislative Instruments Act 2003*, be made  
17              after the beginning of that financial year.

18              *exempt entity*, for a financial year, means a leviable entity who, by  
19              operation of the AML/CTF Rules made under section 229 of the  
20              *Anti-Money Laundering and Counter-Terrorism Financing Act*  
21              2006, or by instrument made under section 248 of that Act, was, on  
22              the census day for that year, exempt from Part 7 of that Act.

23              *indexation factor* means the indexation factor calculated under  
24              section 10.

25              *index number*, in relation to a quarter, means the All Groups  
26              Consumer Price Index number, being the weighted average of the 8  
27              capital cities, published by the Australian Statistician in respect of  
28              that quarter.

29              *leviable entity*, in relation to a financial year (the *current year*),  
30              means a person who:

## Section 7

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- 1 (a) is a reporting entity (within the meaning of section 5 of the  
2 *Anti-Money Laundering and Counter-Terrorism Financing*  
3 *Act 2006*) at any time in the previous financial year; and  
4 (b) on the census day for the current year:  
5 (i) is entered on the Reporting Entities Roll under Part 3A  
6 of that Act; or  
7 (ii) is required, under section 51B of that Act, to apply to be  
8 entered on the Reporting Entities Roll; and  
9 (c) is not an exempt entity for the current year.

10 **person** has the same meaning as in the *Anti-Money Laundering and*  
11 *Counter-Terrorism Financing Act 2006*.

12 **statutory limit** means:

- 13 (a) in relation to the financial year commencing on 1 July  
14 2011—\$33 million; or  
15 (b) in relation to a later financial year—the amount calculated by  
16 multiplying the statutory limit for the previous financial year  
17 by the indexation factor for the later financial year.

18 **statutory minimum** means:

- 19 (a) in relation to the financial year commencing on 1 July  
20 2011—\$100; or  
21 (b) in relation to a later financial year—the amount calculated by  
22 multiplying the statutory minimum for the previous financial  
23 year by the indexation factor for the later financial year.

- 24 (2) This Act applies to a partnership, unincorporated association or  
25 trust as if the partnership, unincorporated association or trust were  
26 a person, but with the following changes:  
27 (a) an obligation that would otherwise be imposed on the  
28 partnership by this Act is imposed on each partner instead,  
29 but may be discharged by any of the partners;  
30 (b) an obligation that would otherwise be imposed on the  
31 association by this Act is imposed on each member of the  
32 association's committee of management instead, but may be  
33 discharged by any of the members;

- 1 (c) an obligation that would otherwise be imposed on the trust by  
2 this Act is imposed on each trustee instead, but may be  
3 discharged by any of the trustees.

#### 4 **8 Imposition of AUSTRAC cost recovery levy**

5 Levy payable in accordance with section 7 of the *Australian*  
6 *Transaction Reports and Analysis Centre Supervisory Cost*  
7 *Recovery Levy (Collection) Act 2011* is imposed.

#### 8 **9 Amount of levy**

- 9 (1) The Minister must, by legislative instrument, determine the amount  
10 of levy payable by a leviable entity for a financial year.
- 11 (2) The sum of all amounts payable by all leviable entities under  
12 subsection (1) in relation to a financial year must not exceed the  
13 statutory limit for that year.
- 14 (3) A determination made for the purposes of subsection (1) may do  
15 one or more of the following:
- 16 (a) specify an amount or a method for determining an amount;
  - 17 (b) specify different amounts or methods for different classes of  
18 leviable entities;
  - 19 (c) specify a nil amount or a method resulting in a nil amount;
  - 20 (d) despite subsection 12(2) of the *Legislative Instruments Act*  
21 *2003*, specify methods that refer to acts done or  
22 circumstances existing before either the commencement of  
23 the determination or the commencement of this Act, or both.
- 24 (4) A determination made for the purposes of subsection (1) for the  
25 2011-12 financial year may, despite subsection 12(2) of the  
26 *Legislative Instruments Act 2003*, be made after the beginning of  
27 that financial year.
- 28 (5) If (apart from this subsection) the amount of levy payable by a  
29 leviable entity for a financial year would be less than the statutory  
30 minimum for that financial year, the amount of levy payable by the  
31 entity in relation to that financial year is nil.

1     **10 Calculation of indexation factor**

- 2             (1) The *indexation factor* for a financial year is the number worked  
3                 out by dividing the index number for the March quarter  
4                 immediately preceding that financial year by the index number for  
5                 the March quarter immediately preceding that first-mentioned  
6                 March quarter.
- 7             (2) The indexation factor is to be calculated to 3 decimal places,  
8                 (rounding up if the fourth decimal place is 5 or more).
- 9             (3) Calculations under subsection (1) are to be made:
- 10                 (a) using only the index numbers published in terms of the most  
11                     recently published reference base for the Consumer Price  
12                     Index; and
- 13                 (b) disregarding index numbers published in substitution for  
14                     previously published index numbers (except where the  
15                     substituted numbers are published to take account of changes  
16                     in the reference base).