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EXTERNAL COMPLIANCE AUDIT REPORT
SUBSECTION 162(2) OF THE ANTI-MONEY
LAUNDERING AND COUNTER-TERRORISM
FINANCING ACT 2006

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INITIALISM
AML compliance solutions

Submitted by Neil G. Jeans as authorised by the CEO of the Australian Transaction
Reports and Analysis Centre (AUSTRAC) under Section 164 of the Anti-Money
Laundering and Counter-Terrorism Financing Act 2006.

AUDIT LIMITATIONS

The findings, conclusions and recommendations set out in this report are a result of the external audit (Audit) undertaken pursuant to the Section 162(2) Notice published by AUSTRAC on the 12th June 2019.

The Audit was conducted between 26th July 2019 and the 22nd November 2019, and included reviewing documentation, interview staff and management and testing.

All testing was conducted on a sample basis, over a specific period of time and aligned to the scope of the Notice. The possibility therefore exists that the report may not identify all weaknesses that exist or identify all improvements that may be made where these relate to controls not reviewed or tested as part of the Audit.

The Audit is not a substitute for Board and Senior Management's responsibility to maintain adequate controls over all levels of operations and their responsibility to prevent and detect irregularities. The Board and Senior Management should therefore not rely solely on this report to identify all weaknesses that may exist.

The results of the work undertaken contained within this report are not binding on the courts or any relevant regulator(s) and this is not a representation, warranty or guarantee that the relevant regulator(s) will agree with the External Auditor's findings, conclusions or recommendations.

Where possible, all management and employee representations have been independently verified, though some findings within this report may have been prepared on the basis of management or employee representations which have not been fully independently tested.

Recommendations should be assessed by Afterpay for their full commercial impact before they are implemented.

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EXTERNAL AUDIT SCOPE

The External Audit took place from 27th July 2019 to 21st November 2019 and included an assessment of all the following matters as set out in the 162(2)

Notice:

- 1. Review of governance and oversight (including senior management / board level involvement) leading up to and including Afterpay's decisions regarding:**
 - a) The two separate updates to its AUSTRAC enrolment details whereby changes were made to the Designated Services it provides;
 - b) The drafting and approval of all versions of its AML/CTF program; and
 - c) Its general compliance with the AML/CTF Act and AML/CTF Rules
- 2. Identification procedures etc. (Part 2 of the AML/CTF Act)**
 - a) Identification procedures for certain low-risk services (Part 2, Division 3 of the AML/CTF Act)
 - i. Verification of the identity of low-risk service customers (Chapter 6, Part 6.4 of the AML/CTF Rules)
 - b) Applicable customer identification procedures (ACIP) (Part 2, Division 4 of the AML/CTF Act)
 - i. ACIP with respect to individuals, companies, trustees and partnerships (Chapter 4, Parts 4.2, 4.3, 4.4 and 4.5 of the AML/CTF Rules)
 - ii. Verification from documentation and from reliable and independent electronic data (Chapter 4, Parts 4.9 and 4.10 of the AML/CTF Rules)
 - iii. Collection and verification of Politically Exposed Person information (Chapter 4, Part 4.13 of the AML/CTF Rules)
 - c) Verification of identify of customer etc. (Part 2, Division 5 of the AML/CTF Act)
 - i. Verification of identify of customers (Chapter 6, Part 6.1 of the AML/CTF Rules)
 - d) Ongoing customer due diligence (Part 2, Division 6 of the AML/CTF Act)
 - i. Chapter 15 Ongoing Customer Due Diligence
- 3. Suspicious matter reporting obligations (Part 3, Division 2 of the AML/CTF Act)**
 - ii. Reportable details for suspicious matters (Chapter 18 of the AML/CTF Rules)
- 4. Reporting entity's obligations (Part 7, Division 2 of the AML/CTF Act)**
- 5. AML/CTF programs (Part 7, Division 3 of the AML/CTF Act)**
 - iii. Chapter 8 – Part A of a standard AML/CTF program

The audit report must be in a form that:

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- (a) Accords with any Australian standard applicable to that kind of audit report, or which in the opinion of the External Auditor accords with the closest applicable Australian standard; and
- (b) Accords with the format and style in which the External Auditor would prepare a report suitable to annex to an expert witness affidavit the External Auditor would make in Federal Court of Australia proceedings.

The audit report must contain details of:

- (c) Any provisions of the AML/CTF Act and/or the AML/CTF Rules which the External Auditor concludes have not been complied with or are not being complied with; and
- (d) The facts on which the auditor has relied to conclude any provisions identified in (a) have not been or are not being complied with; and
- (e) Any measures which the External Auditor believes should be implemented to ensure compliance with the AML/CTF Act and the AML/CTF Rules; and
- (f) The capacity to implement the measures to ensure compliance with the AML/CTF Act and the AML/CTF Rules.

In preparation of this report the External Auditor has read, understood and complied (to the extent relevant) with the Expert Witness Practice Note (GPN-EXT). The External Auditor has also read the Expert Witness Code of Conduct and agrees to be bound by it.

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BACKGROUND OF EXTERNAL AUDITOR

Neil Jeans has a background in financial crime risk management spanning over 25 years, which includes working within Law Enforcement investigating financial crime, investigating domestic and international fraud and money laundering with the UK Metropolitan Police, the UK's National Crime Squad (now the National Crime Agency) through a multi-year joint investigation with the Manhattan District Attorney's Office (DANY) into major transnational investment fraud and associated money laundering.

Neil Jeans also has experience as a Financial Services Regulator, developing anti-money laundering (AML) regulation and supervision techniques, as a central part of the UK FSA's (now FCA) Reduction of Financial Crime Statutory Objective.

Neil Jeans has also worked at senior levels within three major European financial services companies and one of the major Australian banks, managing Financial Crime, AML/CTF, Sanctions and Anti-Bribery risk management and compliance across Europe, the US, Latin America, Asia and Australia/New Zealand.

Neil Jeans is a Member of the Faculty for the Australian Compliance Institute (ACI) and teaches the Diploma in Applied AML/CTF Management, was a founding member of the SWIFT Sanctions Advisory Group, and regularly attended the Private Sector Expert forum of the Financial Action Task Force (FATF). He was also the founding Chair of the Association of Certified Anti-Money Laundering Specialists (ACAMS) Australasian Chapter.

From 2004 to 2006, Neil Jeans was a member of the UK Joint Money Laundering Steering Group (JMLSG) Board which set the UK's AML/CTF compliance standards, and he was significantly involved in drafting Part 4 of the JMLSG Guidance Notes which set out sector Money Laundering risks and sector specific AML/CTF compliance guidance for various parts of the financial services industry.

Since 2012, Neil Jeans has been running a private consultancy company based in Australia through which he provides advice and assistance to many financial services businesses in relation to financial crime risk and controls, including AML/CTF, as well anti-bribery and sanctions.

Neil Jeans has advised and assisted clients in the UK and Asia-Pacific, as well as many Australian reporting entities, including some of Australia's largest financial services organisations including banks, superannuation funds, investment managers, financial planners and life insurance companies on developing and maintaining appropriate AML/CTF controls to address their financial crime risks and compliance obligations.

AUDIT APPROACH AND METHODOLOGY

The External Auditor developed an audit approach and methodology that was used to complete the external audit and to ensure the audit had appropriate coverage and depth.

The methodology approach was primarily based on Australian Auditing Standards and experience of undertaking similar reviews:

The objectives of the auditor under Australian Auditing Standards are to:

- (a) Obtain relevant and reliable audit evidence using substantive analytical procedures; and*
- (b) Design and perform analytical procedures near the end of the audit that assist the auditor when forming an overall conclusion which is consistent with the auditor's understanding.*

When designing and performing analytical procedures the auditor shall:

- (a) Determine the suitability of analytical procedures for assessing and testing of information and details;*
- (b) Evaluate the reliability of data taking into account the source, comparability, nature and relevance of the information as well as the controls over the preparation;*
- (c) Determine the extent of analysis acceptable without further investigation.*

The auditor shall also design and perform analytical procedures prior to reporting as a result of the audit that will assist the auditor in validating conclusions, including enquiring of management and obtaining appropriate audit evidence relevant to management's responses.

The audit approach was designed to ensure appropriate coverage of the scope and, through assessment of each area required by the Notice to ensure that the audit scope is met in the most efficient way. The audit applied the following analytical procedures:

- **AML/CTF Document Review** – Analysis and Assessment of relevant documents, including but not limited to:
 - AML/CTF Programs, Policies and Procedures; and
 - Business Procedures that support AML/CTF.
- **Business Documentation and Materials Review** - Analysis of relevant internal and external business correspondence, emails, meeting notes and minutes.
- **Business Process Review** – Establish, assess and test relevant business processes.
- **Interviews** – Undertake interviews of relevant staff and internal stakeholders

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Each analytical procedure included:

- Collection and collation of relevant materials
- Review and analysis of relevant materials
- Documentation of relevant business processes
- Review and analysis of relevant business processes
- Testing and sampling of information
- Testing and sampling of relevant business processes
- Documentation of findings and results of analysis
- Documentation of testing and sampling

Sample testing was undertaken using control testing methodology developed for Sarbanes-Oxley Act compliance testing. This includes testing incremental structured samples based on the result of initial sample testing.

Before finalising the interim and final reports the External Auditor also undertook a process of review, fact check with relevant Afterpay internal stakeholders.

In preparation of this report the External Auditor has made all the inquiries which they believes are desirable and appropriate, and can confirm that no matters of significance which the External Auditor regards as relevant have, to the knowledge of the External Auditor, been excluded from this report.

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BACKGROUND INFORMATION

Afterpay Pty Ltd is a subsidiary of Afterpay Holdings Ltd and part of the Afterpay Touch Group which is an ASX 100 company.

Afterpay Pty Ltd (Afterpay) is an Australian financial technology company with a “buy-now pay-later” business model that provides consumers with a loan to make purchases from retail merchants that accept Afterpay’s service as a means of payment.

Consumers are provided with the ability to make purchases and receive the goods or services at point of sale and subsequently pay Afterpay in four equal payments every fortnight without interest charges. Failure to make the payments on time can result in late fees.

Consumers are required to be Australian residents with access to an Australian bank account or credit/debit card and be over eighteen years of age to use Afterpay’s service.

Merchants are charged a margin on the transaction settlement amount plus a nominal fee per transaction or purchase.

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Afterpay are obliged to comply with the requirements set out in the AML/CTF Act and the Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1) (AML/CTF Rules), including developing and maintaining a standard AML/CTF Program.

On the 12th of June 2019, The CEO of The Australian Transaction Reports and Analysis Centre (AUSTRAC) issued Afterpay with a Notice under 162(2) of the AML/CTF Act (The Notice). The Notice required Afterpay to appoint an External Auditor to undertake a compliance audit of AfterPay's activities as defined by the scope of the Notice.

Pursuant to AUSTRAC's authorisation of my appointment as the External Auditor under Section 164 of the AML/CTF Act for the purposes of The Notice, the External Auditor provided an Interim Report to Afterpay on 24th September 2019.

This Final Report sets out the findings of the external audit as they relate to the matters required to be covered in The Notice.

The Notice required the Final Report to include:

- a) Any provisions of the AML/CTF Act and/or the AML/CTF Rules which the External Auditor concluded AfterPay has not complied with or is not complying with; and
- b) The facts upon which the External Auditor has relied to conclude any provisions identified in (a) have not been or are not being complied with; and
- c) Any measures which the External Auditor believes Afterpay should implement to ensure that it complies with the AML/CTF Act and the AML/CTF Rules; and
- d) The capacity of Afterpay to implement the measures set out in (c).

This document is the Final Report required by the 162(2) of the AML/CTF Act Notice dated 12th June 2019.

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SUMMARY OF AUDIT RECOMMENDATIONS

The Notice required the External Auditor to assess 12 Notice Matters. The External Auditor has made the following recommendations in accordance with The Notice, which are set out in the relevant Notice Matter:

Notice Matter	Recommendation
Notice Matter 1c – Board and Senior Management oversight and governance of compliance with AML/CTF Act and Rules.	The Board of Afterpay should continue to maintain its current level of Board and Senior Management oversight of AML/CTF compliance as the business grows.
Notice Matter 2a) i – Low Risk Designated Services Exemption.	Afterpay’s service poses a low ML/TF risk service, and Afterpay are encouraged to engage AUSTRAC regarding its buy-now pay-later service being formally designated as low ML/TF risk.
Notice Matter 2b) i – Compliance with applicable customer identification procedures.	Afterpay should engage with AUSTRAC about its historic approach to consumer identity verification, which was outside of the safe harbour set out in the AML/CTF Rules.
Notice Matter 2b) ii – Compliance with PEP identification and risk management requirements.	Afterpay should ensure it complies with all of Parts 4.1.3 and 4.13 of the AML/CTF Rules regarding the identification and management of the risk of politically exposed person (PEPs) using the service.
Notice Matter 2d) i – Compliance with ongoing customer due diligence requirements.	Afterpay should review the application of its enhanced customer due diligence procedures to ensure the processes are applied proportionately with regard to the ML/TF risk posed by the consumer.
Notice Matter 3) ii – Suspicious matter reporting content	Afterpay should continue to evolve its procedures to ensure all actionable information or intelligence available to it is included in suspicious matter reports submitted to AUSTRAC.

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DETAILED AUDIT REPORT
NOTICE MATTER 1a)

1. *Review of governance and oversight (including senior management / board level involvement) leading up to and including Afterpay's decisions regarding:*
 - a) *The two separate updates to its AUSTRAC enrolment details whereby changes were made to the Designated Services it provides.*

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NOTICE MATTER 1b)

1. *Review of governance and oversight (including senior management / board level involvement) leading up to and including Afterpay's decisions regarding:*
 - b) *The drafting and approval of all versions of its AML/CTF program.*

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NOTICE MATTER 1c)

1. *Review of governance and oversight (including senior management / board level involvement) leading up to and including Afterpay's decisions regarding:*
 - c) *Its general compliance with the AML/CTF Act and AML/CTF Rules.*

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NOTICE MATTER 2a). i

2. *Identification procedures etc. (Part 2 of the AML/CTF Act)*

a) *Identification procedures for certain low-risk services (Part 2, Division 3 of the AML/CTF Act)*

i. *Verification of the identity of low-risk service customers (Chapter 6, Part 6.4 of the AML/CTF Rules).*

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NOTICE MATTER 2b). i

2. Identification procedures etc. (Part 2 of the AML/CTF Act)

b) Applicable customer identification procedures (ACIP) (Part 2, Division 4 of the AML/CTF Act)

i. ACIP with respect to individuals, companies, trustees and partnerships (Chapter 4, Parts 4.2, 4.3, 4.4 and 4.5 of the AML/CTF Rules).

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NOTICE MATTER 2b). ii

2. Identification procedures etc. (Part 2 of the AML/CTF Act)

b) Applicable customer identification procedures (ACIP) (Part 2, Division 4 of the AML/CTF Act)

ii. Verification from documentation and from reliable and independent electronic data (Chapter 4, Parts 4.9 and 4.10 of the AML/CTF Rules).

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NOTICE MATTER 2b). iii

2. Identification procedures etc. (Part 2 of the AML/CTF Act)

b) *Applicable customer identification procedures (ACIP) (Part 2, Division 4 of the AML/CTF Act)*

iii. *Collection and Verification of Politically Exposed Person information (Chapter 4, Part 4.13 of the AML/CTF Rules).*

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NOTICE MATTER 2c). i

2. Identification procedures etc. (Part 2 of the AML/CTF Act)

c) Verification of identify of customer etc. (Part 2, Division 5 of the AML/CTF Act)

i. Verification of identify of customers (Chapter 6, Part 6.1 of the AML/CTF Rules).

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NOTICE MATTER 2d). i

2. Identification procedures etc. (Part 2 of the AML/CTF Act)

d) Ongoing customer due diligence (Part 2, Division 6 of the AML/CTF Act)

1. Chapter 15 Ongoing Customer Due Diligence.

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s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

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s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

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s 47G, s 47E

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s 47G, s 47E

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s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47E, s 47G

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47E, s 47G

Released under Freedom Of Information Act 1982 on 15/04/2020

NOTICE MATTER 3). ii

3. *Suspicious matter reporting obligations (Part 3, Division 2 of the AML/CTF Act)*
 2. *Reportable details for suspicious matters (Chapter 18 of the AML/CTF Rules).*

S 47E, S 47G

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47E, s 47G

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

NOTICE MATTER 4

4. *Reporting entity's obligations (Part 7, Division 2 of the AML/CTF Act)*

S 47E, S 47G

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47E, s 47G

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47E, s 47G

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47E, s 47G

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

NOTICE MATTER 5

5. *AML/CTF programs (Part 7, Division 3 of the AML/CTF Act)*

3. *Chapter 8 – Part A of a standard AML/CTF program.*

S 47E, S 47G

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47E, s 47G

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47E, s 47G

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

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s 47G, s 47E

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s 47G, s 47E

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s 47G, s 47E

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s 47G, s 47E

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s 47G, s 47E

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s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

S 47G

Released under Freedom Of Information Act 1982 on 15/04/2020

s 47G, s 47E

Released under Freedom Of Information Act 1982 on 15/04/2020

APPENDIX 3

External Auditor Letter to Board



The Board of Directors
Afterpay Pty Ltd.
406 Collins Street
Melbourne
Victoria
3000

22nd August 2019

Re: Section 162(2) AML/CTF Act Notice issued by AUSTRAC on 12th June 2019.

Dear Board of Directors,

In accordance with my appointment as your external auditor on 26th July 2019, I was required to perform an independent audit (the Audit) of the Notice Matters set out in the Notice issued to Afterpay Pty Ltd under Section 162 of the AML/CTF Act 2006 (The Notice) by the AUSTRAC CEO on 12th June 2019.

I am pleased to provide you with a copy of the Final Audit Report (Final Report) affixed to this letter which was completed within the timeframe specified by AUSTRAC in The Notice.

The Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act) and the Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1) (AML/CTF Rules) create a set of technical and complex obligations. As a result, the Final Report accompanying this letter, in and of itself highly complex and technical in nature.

To support your review of the Final Report, this letter formally provides a high-level summary of the Audit findings as well as my observations and recommendations contained within the 300 pages of the Final Report.

In summary the key finding of the Audit are:

- **Governance and Oversight** – over the course of Afterpay's evolution from a start up to an ASX 100 company, Board and Senior Management oversight and governance has matured significantly. There is now an appropriate level of awareness and engagement.
- **Understanding Risk** – Afterpay is a low risk business in regards to its vulnerability to be used for money laundering or terrorist financing. Notwithstanding this, the risk controls in place must remain commensurate with business growth. Afterpay must enhance its existing controls to identify Politically Exposed Persons (PEPs) and the risk they may pose. It is noted that Afterpay have commenced a project to address this issue.

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- **AML/CTF Program** – Afterpay's AML/CTF Program has also evolved over time and is now appropriately aligned to the AML/CTF Act and Rules. Afterpay commenced to provide designated services from February 2015. The first AML/CTF Program was finalised in June 2016.
- **Key AML/CTF Controls** - Based upon legal advice in 2016, Afterpay initially focused its AML/CTF controls upon merchants. Afterpay's current AML/CTF controls are more appropriately focused on consumers, given the Designated Service Afterpay provides.

In reaching these findings I have established that Afterpay's compliance with its AML/CTF obligations was, from the outset and over time, based upon legal advice from top tier Australian law firms.

The initial legal advice concluded that Afterpay's business model resulted in the provision of the AML/CTF Designated Service – factoring receivables from merchants. I am of the opinion this initial legal advice was incorrect.

The initial legal advice provided to Afterpay did not reflect Afterpay's business model. Having fully analysed Afterpay's buy-now pay-later business, it is my opinion that Afterpay have never provided the factoring receivables Designated Service.

The Designated Service being provided by Afterpay is that of loans to consumers (which are designated under the AML/CTF Act) in order to purchase goods from merchants and this activity constitutes the provision of a loan and repayment of a loan.

Based upon the initial legal advice received regarding the Designated Services being provided, with further support from additional legal advice, Afterpay developed its AML/CTF Program.

Despite Afterpay having a compliance-focused culture, the consequence of being provided with incorrect legal advice has resulted in historic non-compliance with the AML/CTF Act and Rules.

During the course of the Audit, I identified that Afterpay's AML/CTF compliance has evolved and matured over time. Initially iterative in nature, Afterpay's compliance with the AML/CTF Act and Rules later became more transformative in 2018 and 2019:

- **5th February 2015** - Afterpay commenced providing services designated by the AML/CTF Act, providing loans to facilitate consumer purchases from merchants.
- **26th January 2016** - Afterpay commenced customer due diligence on merchants and retrospectively applied customer due diligence to the small number of merchants it had existing agreements with.
- **24th March 2016** - Nick Molnar, a Director of the company, amended Afterpay's AUSTRAC enrolment and notified AUSTRAC that Afterpay was providing the Designated Service of factoring receivables to merchants.
- **17th June 2016** - Afterpay finalised its first AML/CTF Program.

- **4th November 2016** - Afterpay began to collect the date of birth for new consumers when they registered for an account. In July 2018, Afterpay undertook retrospective remedial activity to collect the date of birth for pre-November 2016 consumers.
- **6th April 2017** - A second version of Afterpay's AML/CTF Program was formally approved by the Board and Senior Management and became effective on Monday 10th April 2017.
- **11th May 2018** - Afterpay commenced a project to verify the identity information of consumers. This included a retrospective verification of the identity information of consumers being provided with loans, and from 31st July 2018 the verification of the identity of all new consumers.
- **31st July 2018** - Afterpay produced a third version of the AML/CTF Program reflecting the consumer identity verification requirements in place.
- **31st July 2019** - Afterpay produced a revised version of the AML/CTF Program which included an electronic based verification process for consumers, aligned to the electronic based verification safe harbour procedure, set out in the AML/CTF Rules.
- **13th September 2019** - The AML/CTF Program was fully aligned to the requirements of the AML/CTF Rules.

Over the evolution of the business, from a technology start up to ASX 100 company, there has been increasing Board and Senior Management oversight and governance which reflects the growth of the business and the parallel increase in awareness of Afterpay's AML/CTF compliance obligations.

The nature of Afterpay's buy-now pay-later business, the product it offers and how it delivers its services to consumers mitigates the ML/TF risks reasonably faced by the business.

Despite the low ML/TF risk nature of the business, Afterpay recognises that low risk does not equal no risk, and as a result, Afterpay continues to seek to effectively apply its AML/CTF systems and controls. These systems and controls are now appropriate, focused and continue to be adequately resourced as customer numbers and loan volumes increase.

The Notice required the assessment of 12 Notice Matters. As a result of the Audit I have identified 6 recommendations for you to consider:

- **Notice Matter 1c** - Board and Senior Management oversight and governance of compliance with AML/CTF Act and Rules - I recommend that the Board of Afterpay continue to maintain its current level of Board and Senior Management oversight of AML/CTF compliance as the business grows.
- **Notice Matter 2a) i** - Low Risk Designated Services Exemption - It is my opinion that Afterpay's service poses a low ML/TF risk, and I encourage Afterpay to engage AUSTRAC regarding its buy-now pay-later service being formally designated as low ML/TF risk in the AML/CTF Rules.

- **Notice Matter 2b) i** - Compliance with applicable customer identification procedures - Afterpay should engage with AUSTRAC about its historic approach to consumer identity verification which was outside of the safe harbour set out in the AML/CTF Rules.
- **Notice Matter 2b) ii** - Compliance with politically exposed person (PEP) identification and risk management requirements - Afterpay should ensure it complies with all of Parts 4.1.3 and 4.13 of the AML/CTF Rules regarding the identification and management of the risk of politically exposed person (PEPs) using the service.
- **Notice Matter 2d) i** - Compliance with ongoing customer due diligence requirements - Afterpay should review the application of its enhanced customer due diligence procedures to ensure the processes are applied proportionately with regard to the ML/TF risk posed by the consumer.
- **Notice Matter 3) ii** - Suspicious matter reporting content - Afterpay should continue to evolve its procedures to ensure all actionable information or intelligence available to it is included in suspicious matter reports submitted to AUSTRAC.

In light of the rapid growth of Afterpay's business and the ongoing AML/CTF changes and challenges it faced, Afterpay proactively engaged with AUSTRAC in August 2018 and sought further expert legal advice as well as increasing resources in the area of AML/CTF compliance. This included hiring a skilled AML/CTF Compliance Officer in recognition of the need to ensure AML/CTF compliance kept pace with a business which was growing exponentially and could respond to the changes the business was facing.

From the work undertaken as part of the Audit it is evident that there is a continued commitment by the Board to ensure the business and supporting AML/CTF functions are provided with adequate funding, staff and technical support in order to comply.

Afterpay has a strong compliance culture, supported at the highest levels, which is clearly evident based on one-to-one conversations with Directors, Senior Management and key AML/CTF compliance personnel.

As a result of the increased resource allocation, Afterpay's transaction monitoring system is now effective, efficient and intelligent. Afterpay's work in this space and the results generated contribute to the submission of suspicious matter reports.

Whilst the actual money laundering and terrorism financing risks inherently faced by Afterpay's business are low, Afterpay's increasing transaction volumes and business growth heighten the risk of misuse of Afterpay's buy-now pay-later service. As a result, the Board should maintain a focus on AML/CTF compliance and ensure AML/CTF managers continue to be proactively supported and appropriately equipped to deal with these challenges.

I would like to take this opportunity to thank the Board for their support with the Audit and advise you that your staff I met and worked with during the Audit have been cooperative, professional, and at all times, open and honest. This included being provided with the logistical

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support and access to the information and relevant staff we requested, which ensured I was able to complete the Audit within the specified timeframe.

It is my opinion that the Final Report is a fair and accurate reflection of the maturity of Afterpay's AML/CTF compliance and will support Afterpay's ongoing compliance with the AML/CTF Act and Rules.

Yours Sincerely



Neil Jeans
Principal - Initialism Pty Ltd

Released under Freedom Of Information Act 1982 on 15/04/2020

APPENDIX 4

AML/CTF Act – Referenced Sections

Part 2, Division 3, Sections 30 and 31 - Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Part 2—Identification procedures etc.

Division 3—Identification procedures for certain low-risk services

30 Identification procedures for certain low-risk services

Scope

- (1) This section applies to the provision by a reporting entity of a Designated Service to a customer if, under the AML/CTF Rules, the service is taken to be a low-risk Designated Service.
- (2) Sections 32 and 34 do not apply to the provision by the reporting entity of the Designated Service to the customer.

Note: For special rules about verification of identity etc, see section 31.

31 Verification of identity of low-risk service customer etc.

Scope

- (1) This section applies to a reporting entity if:
 - (a) at a particular time (the *relevant time*), the reporting entity commences to provide a Designated Service to a customer; and
 - (b) under the AML/CTF Rules, the service is taken to be a low-risk Designated Service; and
 - (c) at the relevant time or a later time, a suspicious matter reporting obligation arises for the reporting entity in relation to the customer.

Note 1: For *suspicious matter reporting obligation*, see section 41.

Note 2: For tipping-off offences, see section 123.

Requirement

- (2) The reporting entity must:
 - (a) take such action as is specified in the AML/CTF Rules; and
 - (b) do so within the time limit allowed under the AML/CTF Rules.

Civil penalty

- (3) Subsection (2) is a civil penalty provision.

Part 2, Division 4, Sections 32, 33 and 34 - Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Part 2—Identification procedures etc.

Division 4—Identification procedures etc.

32 Carrying out the applicable customer identification procedure before the commencement of the provision of a Designated Service.

- (1) A reporting entity must not commence to provide a Designated Service to a customer if:
- (a) there are no special circumstances that justify carrying out the applicable customer identification procedure in respect of the customer after the commencement of the provision of the service (see section 33); and
 - (b) the reporting entity has not previously carried out the applicable customer identification procedure in respect of the customer; and
 - (c) neither section 28 nor section 30 applies to the provision of the service.

Note 1: See also the definition of *commence to provide a Designated Service* in section 5.

Note 2: See also section 38 (when applicable customer identification procedure deemed to be carried out by a reporting entity).

Civil penalty

- (2) Subsection (1) is a civil penalty provision.

33 Special circumstances that justify carrying out the applicable customer identification procedure after the commencement of the provision of a Designated Service

For the purposes of this Act, if a reporting entity commences to provide a Designated Service to a customer, there are taken to be special circumstances that justify the carrying out of the applicable customer identification procedure in respect of the customer after the commencement of the provision of the service if, and only if:

- (a) the service is specified in the AML/CTF Rules; and
- (b) such other conditions (if any) as are set out in the AML/CTF Rules are satisfied.

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

34 Carrying out the applicable customer identification procedure after the commencement of the provision of a Designated Service etc.

- (1) If:
- (a) a reporting entity has commenced to provide a Designated Service to a customer; and
 - (b) when the reporting entity commenced to provide the Designated Service to the customer, there were special circumstances that justified the carrying out of the applicable customer identification procedure in respect of the customer after the commencement of the provision of the service (see section 33); and
 - (c) the reporting entity has not previously carried out the applicable customer identification procedure in respect of the customer; and

- (d) the reporting entity has not carried out the applicable customer identification procedure in respect of the customer within whichever of the following periods is applicable:
- (i) if the Designated Service is specified in the AML/CTF Rules—the period ascertained in accordance with the AML/CTF Rules; or
 - (ii) in any other case—the period of 5 business days after the day on which the reporting entity commenced to provide the service; and
- (e) neither section 28 nor section 30 applies to the provision of the service; then, after the end of the period referred to in whichever of subparagraphs (d)(i) or (ii) is applicable, the reporting entity must not continue to provide, and must not commence to provide, any Designated Services to the customer until the reporting entity carries out the applicable customer identification procedure in respect of the customer.

Note 1: See also the definition of *commence to provide a Designated Service* in section 5.

Note 2: See also section 38 (when applicable customer identification procedure deemed to be carried out by a reporting entity).

- (2) Subsection (1) does not apply if:
- (a) under the AML/CTF Rules, the reporting entity is not required to carry out the applicable customer identification procedure in respect of the customer; and
 - (b) the reporting entity takes such action as is specified in the AML/CTF Rules.

Civil penalty

- (3) Subsection (1) is a civil penalty provision.

Periods

- (4) A period ascertained in accordance with AML/CTF Rules made for the purposes of subparagraph (1)(d)(i):
- (a) must commence at the time when the reporting entity commences to provide the Designated Service concerned; and
 - (b) may be expressed to end on the occurrence of a specified event.
- (5) Paragraph (4)(b) does not limit subparagraph (1)(d)(i).

Part 2, Division 5 - Section 35 - Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Part 2—Identification procedures etc.

Division 5—Verification of identity etc.

35 Verification of identity of customer etc.

Scope

- (1) This section applies to a reporting entity if:
- (a) at a particular time, the reporting entity has carried out, or has purported to carry out, the applicable customer identification procedure in respect of a particular customer to whom the reporting entity provided, or proposed to provide, a Designated Service; and

- (b) at a later time, any of the following subparagraphs applies:
 - (i) an event prescribed by the AML/CTF Rules happens;
 - (ii) a circumstance specified in the AML/CTF Rules comes into existence;
 - (iii) a period ascertained in accordance with the AML/CTF Rules ends.

Note: See also section 38 (when applicable customer identification procedure deemed to be carried out by a reporting entity).

Requirement

- (2) The reporting entity must:
 - (a) take such action as is specified in the AML/CTF Rules; and
 - (b) do so within the time limit allowed under the AML/CTF Rules.

Civil penalty

- (3) Subsection (2) is a civil penalty provision.

Part 3, Division 6, Section 36 - Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Part 2—Identification procedures etc.

Division 6—Ongoing customer due diligence

36 Ongoing customer due diligence

- (1) A reporting entity must:
 - (a) monitor the reporting entity's customers in relation to the provision by the reporting entity of Designated Services at or through a permanent establishment of the reporting entity in Australia, with a view to:
 - (i) identifying; and
 - (ii) mitigating; and
 - (iii) managing;
the risk the reporting entity may reasonably face that the provision by the reporting entity of a Designated Service at or through a permanent establishment of the reporting entity in Australia might (whether inadvertently or otherwise) involve or facilitate:
 - (iv) money laundering; or
 - (v) financing of terrorism; and
 - (b) do so in accordance with the AML/CTF Rules.

Civil penalty

- (2) Subsection (1) is a civil penalty provision.

Exemption

- (3) This section does not apply to a Designated Service covered by item 54 of table 1 in section 6.

Note: Item 54 of table 1 in section 6 covers a holder of an Australian financial services licence who arranges for a person to receive a Designated Service.

Designated business groups

- (4) If a reporting entity is a member of a designated business group, the obligation imposed on the reporting entity by subsection (1) may be discharged by any other member of the group.

Registered remittance affiliates

- (5) If an obligation is imposed by subsection (1) on a reporting entity in its capacity as a registered remittance affiliate of a registered remittance network provider, the obligation may be discharged by the registered remittance network provider.

Part 3, Division 2, Section 41 - Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Part 3—Reporting obligations

Division 2—Suspicious matters

41 Reports of suspicious matters

Suspicious matter reporting obligation

- (1) A suspicious matter reporting obligation arises for a reporting entity in relation to a person (the **first person**) if, at a particular time (the **relevant time**):
- (a) the reporting entity commences to provide, or proposes to provide, a Designated Service to the first person; or
 - (b) both:
 - (i) the first person requests the reporting entity to provide a Designated Service to the first person; and
 - (ii) the Designated Service is of a kind ordinarily provided by the reporting entity; or
 - (c) both:
 - (i) the first person inquires of the reporting entity whether the reporting entity would be willing or prepared to provide a Designated Service to the first person; and
 - (ii) the Designated Service is of a kind ordinarily provided by the reporting entity;
- and any of the following conditions is satisfied:
- (d) at the relevant time or a later time, the reporting entity suspects on reasonable grounds that the first person is not the person the first person claims to be;
 - (e) at the relevant time or a later time, the reporting entity suspects on reasonable grounds that an agent of the first person who deals with the reporting entity in relation to the provision or prospective provision of the Designated Service is not the person the agent claims to be;
 - (f) at the relevant time or a later time, the reporting entity suspects on reasonable grounds that information that the reporting entity has concerning the provision, or prospective provision, of the service:
 - (i) may be relevant to investigation of, or prosecution of a person for, an evasion, or an attempted evasion, of a taxation law; or

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- (ii) may be relevant to investigation of, or prosecution of a person for, an evasion, or an attempted evasion, of a law of a State or Territory that deals with taxation; or
- (iii) may be relevant to investigation of, or prosecution of a person for, an offence against a law of the Commonwealth or of a State or Territory; or
- (iv) may be of assistance in the enforcement of the *Proceeds of Crime Act 2002* or regulations under that Act; or
- (v) may be of assistance in the enforcement of a law of a State or Territory that corresponds to the *Proceeds of Crime Act 2002* or regulations under that Act;
- (g) at the relevant time or a later time, the reporting entity suspects on reasonable grounds that the provision, or prospective provision, of the service is preparatory to the commission of an offence covered by paragraph (a), (b) or (c) of the definition of **financing of terrorism** in section 5;
- (h) at the relevant time or a later time, the reporting entity suspects on reasonable grounds that information that the reporting entity has concerning the provision, or prospective provision, of the service may be relevant to the investigation of, or prosecution of a person for, an offence covered by paragraph (a), (b) or (c) of the definition of **financing of terrorism** in section 5;
- (i) at the relevant time or a later time, the reporting entity suspects on reasonable grounds that the provision, or prospective provision, of the service is preparatory to the commission of an offence covered by paragraph (a) or (b) of the definition of **money laundering** in section 5;
- (j) at the relevant time or a later time, the reporting entity suspects on reasonable grounds that information that the reporting entity has concerning the provision, or prospective provision, of the service may be relevant to the investigation of, or prosecution of a person for, an offence covered by paragraph (a) or (b) of the definition of **money laundering** in section 5.

Report

- (2) If a suspicious matter reporting obligation arises for a reporting entity in relation to a person, the reporting entity must give the AUSTRAC CEO a report about the matter within:
 - (a) if paragraph (1)(d), (e), (f), (i) or (j) applies—3 business days after the day on which the reporting entity forms the relevant suspicion; or
 - (b) if paragraph (1)(g) or (h) applies—24 hours after the time when the reporting entity forms the relevant suspicion.
- (3) A report under subsection (2) must:
 - (a) be in the approved form; and
 - (b) contain such information relating to the matter as is specified in the AML/CTF Rules; and
 - (c) contain a statement of the grounds on which the reporting entity holds the relevant suspicion.

Note 1: For additional rules about reports, see section 244.

Note 2: Section 49 deals with the provision of further information, and the production of documents, by the reporting entity.

Civil penalty

- (4) Subsection (2) is a civil penalty provision.

Reasonable grounds for suspicion

- (5) The AML/CTF Rules may specify matters that are to be taken into account in determining whether there are reasonable grounds for a reporting entity to form a suspicion of a kind mentioned in paragraph (1)(d), (e), (f), (g), (h), (i) or (j).

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

Part 3, Division 3, Section 43 - Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Part 3—Reporting obligations

Division 3—Threshold transactions

43 Reports of threshold transactions

Scope

- (1) This section applies to a reporting entity if:
- (a) the reporting entity commences to provide, or provides, a Designated Service to a customer; and
 - (b) the provision of the service involves a threshold transaction.

Report

- (2) The reporting entity must, within 10 business days after the day on which the transaction takes place, give the AUSTRAC CEO a report of the transaction.
- (3) A report under subsection (2) must:
- (a) be in the approved form; and
 - (b) contain such information relating to the transaction as is specified in the AML/CTF Rules.

Note 1: For additional rules about reports, see section 244.

Note 2: Section 43 deals with the provision of further information, and the production of documents, by the reporting entity.

Civil penalty

- (4) Subsection (2) is a civil penalty provision.

Part 3, Division 3, Section 45 - Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Part 3—Reporting obligations

Division 4—International funds transfer instructions

45 Reports of international funds transfer instructions

Scope

- (1) This section applies to a person if:
 - (a) the person is:
 - (i) the sender of an international funds transfer instruction transmitted out of Australia; or
 - (ii) the recipient of an international funds transfer instruction transmitted into Australia; and
 - (b) if the regulations provide that this paragraph is applicable—the total amount or value that is to be, or is, transferred is not less than the amount specified in the regulations; and
 - (c) such other conditions (if any) as are set out in the AML/CTF Rules are satisfied.

Note: *International funds transfer instruction* is defined by section 46.

Report

- (2) The person must, within 10 business days after the day on which the instruction was sent or received by the person, give the AUSTRAC CEO a report about the instruction.
- (3) A report under subsection (2) must:
 - (a) be in the approved form, and
 - (b) contain such information relating to the matter as is specified in the AML/CTF Rules.

Note: For additional rules about reports, see section 244.

Civil penalty

- (4) Subsection (2) is a civil penalty provision.

Funds transfer chain etc.

- (5) For the purposes of this section, it is immaterial whether the person sent or received the international funds transfer instruction in the capacity of interposed institution in a funds transfer chain.

Note: For *funds transfer chain*, see subsection 64(2).

Exemptions

- (6) This section does not apply to an international funds transfer instruction that is of a kind specified in the AML/CTF Rules.
- (7) This section does not apply to an international funds transfer instruction that is sent or received in circumstances specified in the AML/CTF Rules.

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46 International funds transfer instruction

For the purposes of this Act, the following table defines *international funds transfer instruction*:

International funds transfer instruction		
Item	Type of instruction	The instruction is an <i>international funds transfer instruction</i> if ...
1	electronic funds transfer instruction	<ul style="list-style-type: none"> (a) the instruction is accepted at or through a permanent establishment of the ordering institution in Australia; and (b) the transferred money is to be, or is, made available to the payee at or through a permanent establishment of the beneficiary institution in a foreign country
2	electronic funds transfer instruction	<ul style="list-style-type: none"> (a) the instruction is accepted at or through a permanent establishment of the ordering institution in a foreign country; and (b) the transferred money is to be, or is, made available to the payee at or through a permanent establishment of the beneficiary institution in Australia
3	instruction given by a transferor entity for the transfer of money or property under a designated remittance arrangement	<ul style="list-style-type: none"> (a) the instruction is accepted at or through a permanent establishment of a non-financier in Australia; and (b) the money or property is to be, or is, made available to the ultimate transferee entity at or through a permanent establishment of a person in a foreign country
4	instruction given by a transferor entity for the transfer of money or property under a designated remittance arrangement	<ul style="list-style-type: none"> (a) the instruction is accepted at or through a permanent establishment of a person in a foreign country; and (b) the money or property is to be, or is, made available to the ultimate transferee entity at or through a permanent establishment of a non-financier in Australia

Part 3, Division 5, Section 47 - Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Part 3—Reporting obligations

Division 5—AML/CTF compliance reports

47 AML/CTF compliance reports

Scope

- (1) This section applies if the AML/CTF Rules provide that, for the purposes of this section:
 - (a) a specified period is a reporting period; and
 - (b) a specified period beginning at the end of a reporting period is the lodgement period for that reporting period.A period specified under paragraph (a) or (b) may be a recurring period.

Report

- (2) A reporting entity must, within the lodgement period for a reporting period, give the AUSTRAC CEO a report relating to the reporting entity's compliance with this Act, the regulations and the AML/CTF Rules during the reporting period.
- (3) A report under subsection (2) must:
 - (a) be in the approved form; and
 - (b) contain such information as is required by the approved form.

Note: For additional rules about reports, see section 244.

Civil penalty

- (4) Subsection (2) is a civil penalty provision.

Exemption

- (5) This section does not apply to a reporting entity if all of the Designated Services provided by the reporting entity are covered by item 54 of table 1 in section 6.

Note: Item 54 of table 1 in section 6 covers a holder of an Australian financial services licence who arranges for a person to receive a Designated Service.

Designated business groups

- (6) If a reporting entity is a member of a designated business group, the obligation imposed on the reporting entity by subsection (2) may be discharged by any other member of the group.
- (7) If 2 or more reporting entities are members of a designated business group, reports under subsection (2) relating to those reporting entities may be set out in the same document.

Different reporting entities

- (8) AML/CTF Rules made for the purposes of this section may make different provision with respect to different reporting entities. This does not limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

Part 3A - Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Part 3A—Reporting Entities Roll

51B Reporting entities must enrol

- (1) If a person's name is not entered on the Reporting Entities Roll, the person must:
 - (a) if the person provided a Designated Service during the period of 28 days before the commencement of this section—apply in writing to the AUSTRAC CEO under subsection 51E(1) within 28 days after the commencement of this section; or
 - (b) if the person commences to provide a Designated Service after the commencement of this section—apply in writing to the AUSTRAC CEO under subsection 51E(1) within 28 days after commencing to provide the Designated Service.
- (2) Subsection (1) does not apply if the person:
 - (a) has applied under subsection 51E(1) in relation to the provision of another Designated Service; and
 - (b) has not since requested under section 51G that the AUSTRAC CEO remove the person's name and enrolment details from the Reporting Entities Roll.

Civil penalty

- (3) Subsection (1) is a civil penalty provision.

51C Reporting Entities Roll

- (1) The AUSTRAC CEO must maintain a roll for the purposes of this Part, to be known as the Reporting Entities Roll.
- (2) The AUSTRAC CEO may maintain the Reporting Entities Roll by electronic means.
- (3) The Reporting Entities Roll is not a legislative instrument.
- (4) The AML/CTF Rules may make provision for and in relation to either or both of the following:
 - (a) the correction of entries in the Reporting Entities Roll;
 - (b) any other matter relating to the administration or operation of the Reporting Entities Roll, including the removal of names and enrolment details from the Reporting Entities Roll.

51D Enrolment

If a person applies to the AUSTRAC CEO under subsection 51E(1) and the person's name is not already entered on the Reporting Entities Roll, the AUSTRAC CEO must enter on the Reporting Entities Roll:

- (a) the person's name; and
- (b) the person's enrolment details.

51E Applications for enrolment

- (1) A person may apply in writing to the AUSTRAC CEO for enrolment as a reporting entity.

- (2) The application must:
 - (a) be in accordance with the approved form, or in a manner specified in the AML/CTF Rules; and
 - (b) contain the information required by the AML/CTF Rules.

51F Enrolled persons to advise of change in enrolment details

- (1) A person who is enrolled under this Part must advise the AUSTRAC CEO, in accordance with subsection (2), of any change in the person's enrolment details that is of a kind specified in the AML/CTF Rules.
- (2) A person who is required by subsection (1) to advise the AUSTRAC CEO of a change in enrolment details must do so:
 - (a) within 14 days of the change arising; and
 - (b) in accordance with the approved form, or in a manner specified in the AML/CTF Rules.

Civil penalty

- (3) Subsection (1) is a civil penalty provision.

51G Removal of entries from the Reporting Entities Roll

- (1) A person may, in writing, request the AUSTRAC CEO to remove the person's name and enrolment details from the Reporting Entities Roll.
- (2) The request must:
 - (a) be in the approved form; and
 - (b) contain the information required by the AML/CTF Rules.
- (3) The AUSTRAC CEO must consider the request and remove the person's name and enrolment details from the Reporting Entities Roll if the AUSTRAC CEO is satisfied that it is appropriate to do so, having regard to:
 - (a) whether the person has ceased to provide Designated Services; and
 - (b) the likelihood of the person providing a Designated Service in the financial year beginning after the request is given; and
 - (c) any outstanding obligations the person has (if any) to provide a report under any of the following provisions:
 - (i) section 43 (threshold transaction reports);
 - (ii) section 45 (international funds transfer instruction reports);
 - (iii) section 47 (AML/CTF compliance reports).

Part 7, Division 2, Section 81 - Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Part 7—Anti-money laundering and counter-terrorism financing programs

Division 2—Reporting entity’s obligations

81 Reporting entity must have an anti-money laundering and counter-terrorism financing program

- (1) A reporting entity must not commence to provide a Designated Service to a customer if the reporting entity:
- (a) has not adopted; and
 - (b) does not maintain;
- an anti-money laundering and counter-terrorism financing program that applies to the reporting entity.

Civil penalty

- (2) Subsection (1) is a civil penalty provision.

Part 7, Division 2, Section 82 - Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Part 7—Anti-money laundering and counter-terrorism financing programs

Division 2—Reporting entity’s obligations

82 Compliance with Part A of an anti-money laundering and counter-terrorism financing program

Compliance with program

- (1) If a reporting entity has adopted:
- (a) a standard anti-money laundering and counter-terrorism financing program; or
 - (b) a joint anti-money laundering and counter-terrorism financing program; that applies to the reporting entity, the reporting entity must comply with:
 - (c) Part A of the program; or
 - (d) if the program has been varied on one or more occasions—Part A of the program as varied.

Civil penalty

- (2) Subsection (1) is a civil penalty provision.

Exceptions

- (3) Subsection (1) does not apply to a particular provision of Part A of a standard anti-money laundering and counter-terrorism financing program if the provision was not included in the program in order to comply with the requirements specified in AML/CTF Rules made for the purposes of paragraph 84(2)(c).
- (4) Subsection (1) does not apply to a particular provision of Part A of a joint anti-money laundering and counter-terrorism financing program if the provision was not included in the program in order to comply with the requirements specified in AML/CTF Rules made for the purposes of paragraph 85(2)(c).
- (5) A person who wishes to rely on subsection (3) or (4) bears an evidential burden in relation to that matter.

Part 7, Division 3, Section 84 - Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Part 7—Anti-money laundering and counter-terrorism financing programs

Division 3—Anti-money laundering and counter-terrorism financing programs

84 Standard anti-money laundering and counter-terrorism financing program

- (1) A *standard anti-money laundering and counter-terrorism financing program* is a written program that:
 - (a) applies to a particular reporting entity; and
 - (b) is divided into the following parts:
 - (i) Part A (general);
 - (ii) Part B (customer identification).

Note: A standard anti-money laundering and counter-terrorism financing program does not bind the reporting entity unless the reporting entity adopts the program (see section 82).

Part A (general)

- (2) Part A of a standard anti-money laundering and counter-terrorism financing program is a part:
 - (a) the primary purpose of which is to:
 - (i) identify; and
 - (ii) mitigate; and
 - (iii) manage;
the risk the reporting entity may reasonably face that the provision by the reporting entity of Designated Services at or through a permanent establishment of the reporting entity in Australia might (whether inadvertently or otherwise) involve or facilitate:
 - (iv) money laundering; or
 - (v) financing of terrorism; and
 - (b) if the reporting entity provides Designated Services at or through a permanent establishment of the reporting entity in a foreign country—another purpose of

which is to ensure that the reporting entity takes such action (if any) as is specified in the AML/CTF Rules in relation to the provision by the reporting entity of Designated Services at or through a permanent establishment of the reporting entity in a foreign country; and

- (c) that complies with such requirements (if any) as are specified in the AML/CTF Rules.

Part 10, Division 1, Sections 106, 107, 108, 111, 112, 113 - Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Part 10—Record-keeping requirements

Division 2—Records of transactions etc.

106 Records of Designated Services

- (1) The AML/CTF Rules may provide that, if a reporting entity commences to provide, or provides, a specified kind of Designated Service to a customer, the reporting entity must make a record of information relating to the provision of the service.
- (2) The AML/CTF Rules may provide that, if a reporting entity commences to provide, or provides, a Designated Service to a customer in circumstances specified in the AML/CTF Rules, the reporting entity must make a record of information relating to the provision of the service.
- (3) A record under subsection (1) or (2) must comply with such requirements (if any) as are specified in the AML/CTF Rules.
- (4) A reporting entity must comply with AML/CTF Rules made for the purposes of this section.

Civil penalty

- (5) Subsection (4) is a civil penalty provision.

Designated business groups

- (6) If:
- (a) a reporting entity is a member of a designated business group; and
 - (b) such other conditions (if any) as are specified in the AML/CTF Rules are satisfied;
- the obligation imposed on the reporting entity by subsection (4) may be discharged by any other member of the group.

107 Transaction records to be retained

Scope

- (1) This section applies if:
- (a) a reporting entity makes a record of information relating to the provision of a Designated Service to a customer; and
 - (b) the record is not declared by the AML/CTF Rules to be exempt from this section.

Retention

- (2) The reporting entity must retain:
 - (a) the record; or
 - (b) a copy of the record; or
 - (c) an extract from the record showing the prescribed information;for 7 years after the making of the record.

Civil penalty

- (3) Subsection (2) is a civil penalty provision.

Designated business groups

- (4) If:
 - (a) a reporting entity is a member of a designated business group; and
 - (b) such other conditions (if any) as are specified in the AML/CTF Rules are satisfied;the obligation imposed on the reporting entity by subsection (2) may be discharged by any other member of the group.

108 Customer-provided transaction documents to be retained

Scope

- (1) This section applies if:
 - (a) a document relating to the provision, or prospective provision, of a Designated Service by a reporting entity is given to the reporting entity by or on behalf of the customer concerned; and
 - (b) the reporting entity commences, or has commenced, to provide the service to the customer.
- (2) The reporting entity must retain:
 - (a) the document; or
 - (b) a copy of the document;for 7 years after the giving of the document.

Civil penalty

- (3) Subsection (2) is a civil penalty provision.

Designated business groups

- (4) If:
 - (a) a reporting entity is a member of a designated business group; and
 - (b) such other conditions (if any) as are specified in the AML/CTF Rules are satisfied;the obligation imposed on the reporting entity by subsection (2) may be discharged by any other member of the group.

Division 3—Records of identification procedures

111 Copying documents obtained in the course of carrying out an applicable custom identification procedure

For the purposes of this Act, if:

- (a) a document is produced to a reporting entity in the course of an applicable customer identification procedure carried out under this Act; and
 - (b) the reporting entity makes a copy of the document;
- the reporting entity is taken to have made a record of the information contained in the document.

112 Making of records of identification procedures

Scope

- (1) This section applies to a reporting entity if the reporting entity carries out an applicable customer identification procedure in respect of a particular customer to whom the reporting entity provided, or proposed to provide, a Designated Service.

Records

- (2) The reporting entity must make a record of:
 - (a) the procedure; and
 - (b) information obtained in the course of carrying out the procedure; and
 - (c) such other information (if any) about the procedure as is specified in the AML/CTF Rules.
- (3) A record under subsection (2) must comply with such requirements (if any) as are specified in the AML/CTF Rules.

Civil penalty

- (4) Subsection (2) is a civil penalty provision.

Designated business groups

- (5) If:
 - (a) a reporting entity is a member of a designated business group; and
 - (b) such other conditions (if any) as are specified in the AML/CTF Rules are satisfied;the obligation imposed on the reporting entity by subsection (2) may be discharged by any other member of the group.

113 Retention of records of identification procedures

Scope

- (1) This section applies to a reporting entity if:
 - (a) the reporting entity carried out an applicable customer identification procedure in respect of a particular customer to whom the reporting entity provided, or proposed to provide, a Designated Service; and
 - (b) the reporting entity made a record of:
 - (i) the procedure; or
 - (ii) information obtained in the course of carrying out the procedure; or
 - (iii) such other information (if any) about the procedure as is specified in the AML/CTF Rules.

Retention

- (2) The reporting entity must retain the record, or a copy of the record, until the end of the first 7-year period:
- (a) that began at a time after the procedure was carried out; and
 - (b) throughout the whole of which the reporting entity did not provide any Designated Services to the customer.

Civil penalty

- (3) Subsection (2) is a civil penalty provision.

Designated business groups

- (4) If:
- (a) a reporting entity is a member of a designated business group; and
 - (b) such other conditions (if any) as are specified in the AML/CTF Rules are satisfied;
- the obligation imposed on the reporting entity by subsection (2) may be discharged by any other member of the group.

Part 13, Division 8, Section 165 - Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Part 13—Audit

Division 8—Money laundering and terrorism financing risk assessments

165 Money laundering and terrorism financing risk assessments

Money laundering and terrorism financing program risk assessment

- (6) For the purposes of this Act, a **money laundering and terrorism financing risk assessment** is an assessment by a reporting entity of:
- (a) the risk the reporting entity may reasonably face that the provision by the reporting entity of Designated Services at or through a permanent establishment of the reporting entity in Australia might (whether inadvertently or otherwise) involve or facilitate:
 - (i) money laundering; or
 - (ii) financing of terrorism; and
 - (b) what the reporting entity will need to do, or continue to do, to:
 - (i) identify; and
 - (ii) mitigate; and
 - (iii) manage;the risk the reporting entity may reasonably face that the provision by the reporting entity of Designated Services at or through a permanent establishment of the reporting entity in Australia might (whether inadvertently or otherwise) involve or facilitate:
 - (iv) money laundering; or
 - (v) financing of terrorism.

AML/CTF Rules – Referenced Chapters

Chapter 4, Parts 4.1-4.13 - Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)

CHAPTER 4

Part 4.1 Introduction

4.1.1 These Rules are made pursuant to section 229 of the AML/CTF Act for the purposes of paragraphs 36(1)(b), 84(2)(c), 84(3)(b), 85(2)(c) and 85(3)(b), and sections 106, 107 and 108 of the AML/CTF Act. Sections 136 and 137 of the AML/CTF Act apply to each paragraph of this Chapter. They specify the requirements with which Part A or Part B of a reporting entity's standard AML/CTF program or Part A or Part B of a reporting entity's joint AML/CTF program must comply. The primary purpose of Part A of a standard or joint AML/CTF program is to identify, manage and mitigate money laundering or terrorism financing (ML/TF) risk a reporting entity may reasonably face in relation to the provision by the reporting entity of Designated Services at or through a permanent establishment in Australia. The sole or primary purpose of Part B is to set out the reporting entity's applicable customer identification procedures.

Note: Reporting entities that collect information about a customer from a third party will need to consider their obligation under subclause 3.6 of the Australian Privacy Principles, which requires that personal information about an individual must be collected only from the individual unless it is unreasonable or impractical to do so and where it is reasonably necessary for the reporting entity's functions or activities.

4.1.2 This Chapter does not apply to:

- (1) a pre-commencement customer; or
- (2) a customer who receives a Designated Service covered by item 40, 42 or 44 of table 1 in section 6 of the AML/CTF Act.

Note: Subparagraph 4.1.2(1) relates to pre-commencement customers referred to in sections 28 and 29 of the AML/CTF Act.

4.1.3 For the purposes of these Rules, in identifying its ML/TF risk a reporting entity must consider the risk posed by the following factors:

- (1) its customer types; including:
 - (a) beneficial owners of customers; and
 - (b) any politically exposed persons;
- (2) its customers' sources of funds and wealth;

- (3) the nature and purpose of the business relationship with its customers, including, as appropriate, the collection of information relevant to that consideration;
- (4) the control structure of its non-individual customers;
- (5) the types of Designated Services it provides;
- (6) the methods by which it delivers Designated Services; and
- (7) the foreign jurisdictions with which it deals.

Different requirements with respect to different kinds of customers

4.1.4 These Rules specify different requirements for AML/CTF programs in relation to different kinds of customers. An AML/CTF program must comply with such requirements to the extent that a reporting entity has a customer of a particular kind. These Rules make provision in respect of the following kinds of customers:

- (1) Individuals – Part 4.2 of these Rules;
- (2) Companies – Part 4.3 of these Rules;
- (3) Customers who act in the capacity of a trustee of a trust – Part 4.4 of these Rules;
- (4) Customers who act in the capacity of a member of a partnership – Part 4.5 of these Rules;
- (5) Incorporated or unincorporated associations – Part 4.6 of these Rules;
- (6) Registered co-operatives – Part 4.7 of these Rules;
- (7) Government bodies – Part 4.8 of these Rules.

Requirements in respect to Beneficial Owners and Politically Exposed Persons

4.1.5 These Rules specify different requirements for AML/CTF programs in relation to beneficial owners and politically exposed persons:

- (1) Beneficial Owners – Part 4.12 of these Rules;
- (2) Politically Exposed Persons – Part 4.13 of these Rules.

4.1.6 A reporting entity is only required to apply the requirements specified in subparagraphs 4.4.3(5) and 4.4.5(5), and in Part 4.12 and Part 4.13 of these Rules to a person who becomes a customer after the commencement of those provisions on 1 June 2014.

Verification

- 4.1.7 These Rules also require an AML/CTF program to comply with the requirements of Part 4.9 of these Rules relating to document-based verification and with the requirements of Part 4.10 of these Rules relating to verification from electronic data.

Agents of customers

- 4.1.8 An AML/CTF program must comply with the requirements of Part 4.11 of these Rules in relation to any agent who is authorised to act for or on behalf of a customer in relation to a Designated Service.

Part 4.2 Applicable customer identification procedure with respect to individuals

- 4.2.1 In so far as a reporting entity has any customer who is an individual, an AML/CTF program must comply with the requirements specified in Part 4.2 of these Rules.
- 4.2.2 An AML/CTF program must include appropriate risk-based systems and controls that are designed to enable the reporting entity to be reasonably satisfied, where a customer is an individual, that the customer is the individual that he or she claims to be.

Collection of information

- 4.2.3 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information about an individual (other than an individual who notifies the reporting entity that he or she is a customer of the reporting entity in his or her capacity as a sole trader):
- (1) the customer's full name;
 - (2) the customer's date of birth; and
 - (3) the customer's residential address.
- 4.2.4 An AML/CTF program must include a procedure for the reporting entity to collect at a minimum the following KYC information about a customer who notifies the reporting entity that he or she is a customer of the reporting entity in his or her capacity as a sole trader:
- (1) the customer's full name;
 - (2) the customer's date of birth;
 - (3) the full business name (if any) under which the customer carries on his or her business;
 - (4) the full address of the customer's principal place of business (if any) or the customer's residential address; and
 - (5) any ABN issued to the customer.

- 4.2.5 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.2.3 or 4.2.4 above, any other KYC information will be collected about a customer.

Verification of information

- 4.2.6 An AML/CTF program must include a procedure for the reporting entity to verify, at a minimum, the following KYC information about a customer:

- (1) the customer's full name; and
- (2) either:
 - (a) the customer's date of birth; or
 - (b) the customer's residential address.

- 4.2.7 An AML/CTF program must require that the verification of information collected about a customer be based on:

- (1) reliable and independent documentation;
- (2) reliable and independent electronic data; or
- (3) a combination of (1) and (2) above.

- 4.2.8 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.2.6 above, any other KYC information collected about the customer should be verified from reliable and independent documentation, reliable and independent electronic data or a combination of the two.

Responding to discrepancies

- 4.2.9 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to any discrepancy that arises in the course of verifying KYC information collected about a customer so that the reporting entity can determine whether it is reasonably satisfied that the customer is the person that he or she claims to be.

Documentation-based safe harbour procedure where ML/TF risk is medium or lower

- 4.2.10 Paragraph 4.2.11 sets out one procedure for documentation-based verification which a reporting entity may include in an AML/CTF program to comply with its obligations under paragraphs 4.2.3 to 4.2.8, and 4.9.1 to 4.9.3 of these Rules where the relationship with the customer is of medium or lower ML/TF risk. Paragraph 4.2.11 does not preclude a reporting entity from meeting the requirements of paragraphs 4.2.3 to 4.2.8, and 4.9.1 to 4.9.3 of these Rules in another way where the relationship with the customer is of medium or lower ML/TF risk.

4.2.11 An AML/CTF program that requires the reporting entity to do the following will be taken to meet the requirements of paragraphs 4.2.3 to 4.2.8 and 4.9.2 to 4.9.3 of these Rules in respect of a customer, where a reporting entity determines that the relationship with that customer is of medium or lower risk:

- (1) collect the KYC information described in paragraph 4.2.3 or 4.2.4 (as the case may be);
- (2) verify the customer's name and either the customer's residential address or date of birth, or both, from:
 - (a) an original or certified copy of a primary photographic identification document; or
 - (b) both:
 - (i) an original or certified copy of a primary non-photographic identification document; and
 - (ii) an original or certified copy of a secondary identification document; and
- (3) verify that any document produced about the customer has not expired (other than in the case of a passport issued by the Commonwealth that expired within the preceding two years).

Electronic-based safe harbour procedure where ML/TF Risk is medium or lower

4.2.12 Paragraph 4.2.13 sets out one procedure for electronic verification which a reporting entity may follow to comply with its obligations under paragraphs 4.2.3 to 4.2.8, and 4.10.1 of these Rules where the relationship with the customer is of medium or lower ML/TF risk. Paragraph 4.2.13 does not preclude a reporting entity from meeting the requirements of paragraphs 4.2.3 to 4.2.8, and 4.10.1 of these Rules in another way where the relationship with the customer is of medium or lower ML/TF risk.

4.2.13 Part B of an AML/CTF program that requires the reporting entity to do the following will be taken to meet the requirements of paragraphs 4.2.3 to 4.2.8 and 4.10.1 of these Rules in respect of a customer, where a reporting entity determines that the relationship with the customer is of medium or lower risk:

- (1) collect the KYC information described in paragraph 4.2.3 or 4.2.4 (as the case may be) about a customer;
- (2) verify, having regard to the matters set out in subparagraph 4.10.2(1):
 - (a) the customer's name; and
 - (b) either:
 - (i) the customer's residential address; or
 - (ii) the customer's date of birth; or

(iii) both (i) and (ii); or

(c) that the customer has a transaction history for at least the past 3 years.

4.2.14 For subparagraphs 4.2.13(2)(a) and (b), verification must be undertaken by the reporting entity through the use of reliable and independent electronic data from at least two separate data sources.

Part 4.3 Applicable customer identification procedure with respect to companies

4.3.1 In so far as a reporting entity has any customer who is a domestic or a foreign company, an AML/CTF program must comply with the requirements specified in Part 4.3 of these Rules.

4.3.2 An AML/CTF program must include appropriate risk-based systems and controls that are designed to enable the reporting entity to be reasonably satisfied, where a customer is a company, that:

- (1) the company exists; and
- (2) in respect to beneficial owners, the reporting entity has complied with the requirements specified in Part 4.12 of these Rules.

Existence of the company - collection of minimum information

4.3.3 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information about a company:

- (1) in the case of a domestic company:
 - (a) the full name of the company as registered by ASIC;
 - (b) the full address of the company's registered office;
 - (c) the full address of the company's principal place of business, if any;
 - (d) the ACN issued to the company;
 - (e) whether the company is registered by ASIC as a proprietary or public company; and
 - (f) if the company is registered as a proprietary company, the name of each Director of the company;
- (2) in the case of a registered foreign company:
 - (a) the full name of the company as registered by ASIC;
 - (b) the full address of the company's registered office in Australia;

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- (c) the full address of the company's principal place of business in Australia (if any) or the full name and address of the company's local agent in Australia, if any;
 - (d) the ARBN issued to the company;
 - (e) the country in which the company was formed, incorporated or registered;
 - (f) whether the company is registered by the relevant foreign registration body and if so whether it is registered as a private or public company or some other type of company; and
 - (g) if the company is registered as a private company by the relevant foreign registration body - the name of each Director of the company;
- (3) in the case of an unregistered foreign company:
- (a) the full name of the company;
 - (b) the country in which the company was formed, incorporated or registered;
 - (c) whether the company is registered by the relevant foreign registration body and if so:
 - (i) any identification number issued to the company by the relevant foreign registration body upon the company's formation, incorporation or registration;
 - (ii) the full address of the company in its country of formation, incorporation or registration as registered by the relevant foreign registration body; and
 - (iii) whether it is registered as a private or public company or some other type of company by the relevant foreign registration body;
 - (d) if the company is registered as a private company by the relevant foreign registration body - the name of each Director of the company; and
 - (e) if the company is not registered by the relevant foreign registration body, the full address of the principal place of business of the company in its country of formation or incorporation.

4.3.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.3.3, any other KYC information relating to the company's existence will be collected in respect of a company.

Existence of company – verification of information

4.3.5 An AML/CTF program must include a procedure for the reporting entity to verify, at a minimum, the following information about a company:

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- (1) in the case of a domestic company:
 - (a) the full name of the company as registered by ASIC;
 - (b) whether the company is registered by ASIC as a proprietary or public company; and
 - (c) the ACN issued to the company;
 - (2) in the case of a registered foreign company:
 - (a) the full name of the company as registered by ASIC;
 - (b) whether the company is registered by the relevant foreign registration body and if so whether it is registered as a private or public company; and
 - (c) the ARBN issued to the company;
 - (3) in the case of an unregistered foreign company:
 - (a) the full name of the company; and
 - (b) whether the company is registered by the relevant foreign registration body and if so:
 - (i) any identification number issued to the company by the relevant foreign registration body upon the company's formation, incorporation or registration; and
 - (ii) whether the company is registered as a private or public company.
- 4.3.6 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.3.3, any other KYC information referred to in paragraph 4.3.3 or other KYC information relating to the company's existence collected in respect of the company, should be verified.
- 4.3.7 In determining whether, and what, additional information will be collected and/or verified in respect of a company pursuant to paragraphs 4.3.4 and/or 4.3.6, the reporting entity must have regard to ML/TF risk relevant to the provision of the Designated Service.
- 4.3.8 If an AML/CTF program includes the simplified company verification procedure described below with respect to a company that is:
- (1) a domestic listed public company;
 - (2) a majority owned subsidiary of a domestic listed public company; or
 - (3) licensed and subject to the regulatory oversight of a Commonwealth, State or Territory statutory regulator in relation to its activities as a company;

an AML/CTF program is taken to comply with the requirements of paragraphs 4.3.5, 4.3.6 and 4.3.7 of these Rules in so far as those customers are concerned.

Simplified Company Verification Procedure

The reporting entity must confirm that the company is:

- (1) a domestic listed public company;
- (2) a majority owned subsidiary of a domestic listed public company; or
- (3) licensed and subject to the regulatory oversight of a Commonwealth, State or Territory statutory regulator in relation to its activities as a company;

by obtaining one or a combination of the following:

- (4) a search of the relevant domestic stock exchange;
- (5) a public document issued by the relevant company;
- (6) a search of the relevant ASIC database;
- (7) a search of the licence or other records of the relevant regulator.

- 4.3.9 (1) An AML/CTF program may include appropriate risk-based systems and controls for the reporting entity to determine whether and in what manner to verify the existence of a foreign company by confirming that the foreign company is a foreign listed public company.
- (2) If an AML/CTF program includes systems and controls of that kind, the AML/CTF program must include a requirement that, in determining whether and in what manner to verify the existence of a foreign listed public company in accordance with those systems and controls, the reporting entity must have regard to ML/TF risk relevant to the provision of the Designated Service, including the location of the foreign stock or equivalent exchange (if any).
- (3) If an AML/CTF program includes systems and controls of that kind, an AML/CTF program is taken to comply with the requirements of paragraphs 4.3.5, 4.3.6 and 4.3.7 of these Rules in so far as those customers are concerned.

Methods of verification

4.3.10 Subject to paragraph 4.3.11, an AML/CTF program must require that the verification of information about a company be based as far as possible on:

- (1) reliable and independent documentation;
- (2) reliable and independent electronic data; or
- (3) a combination of (1) and (2) above.

4.3.11 For the purposes of subparagraph 4.3.10(1), ‘reliable and independent documentation’ includes a disclosure certificate that verifies information about the beneficial owners of a company if a reporting entity is permitted to obtain a disclosure certificate as described in Chapter 30.

- 4.3.12 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether to rely on a disclosure certificate to verify information about a foreign company where such information is not otherwise reasonably available.
- 4.3.13 An AML/CTF program must include a requirement that, in determining whether to rely on a disclosure certificate to verify information in relation to a foreign company in accordance with the requirements of paragraph 4.3.12 above, the reporting entity must have regard to ML/TF risk relevant to the provision of the Designated Service, including the jurisdiction of incorporation of the foreign company as well as the jurisdiction of the primary operations of the foreign company and the location of the foreign stock or equivalent exchange (if any).

Responding to discrepancies

- 4.3.14 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to any discrepancy that arises in the course of verifying information about a company, so that the reporting entity can determine whether it is reasonably satisfied about the matters referred to in subparagraphs 4.3.2(1) and (2).

Part 4.4 Applicable customer identification procedure with respect to trustees

- 4.4.1 In so far as a reporting entity has any customer who acts in the capacity of a trustee of a trust, an AML/CTF program must comply with the requirements specified in Part 4.4 of these Rules.
- 4.4.2 Subject to paragraph 4.4.18, an AML/CTF program must include appropriate risk-based systems and controls that are designed to enable the reporting entity to be reasonably satisfied, where a person notifies the reporting entity that the person is a customer of the reporting entity in the person's capacity as the trustee of a trust, that:
- (1) the trust exists; and
 - (2) the name of each trustee and beneficiary, or a description of each class of beneficiary, of the trust has been provided.

Existence of the trust - collection and verification of information

- 4.4.3 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information about a customer:
- (1) the full name (if any) of the trust;
 - (2) the full business name (if any) of the trustee in respect of the trust;
 - (3) the type of the trust;
 - (4) the country in which the trust was established;
 - (5) the full name of the settlor of the trust, unless:

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- (a) the material asset contribution to the trust by the settlor at the time the trust is established is less than \$10,000; or
- (b) the settlor is deceased; or
- (c) the trust is verified using the simplified trustee verification procedure under paragraph 4.4.8 of these Rules; or
- (d) the customer is a custodian.

Note: 'Custodian' is defined in subparagraph 4.4.19(1) of these Rules.

- (6) if any of the trustees is an individual, then in respect of one of those individuals – the information required to be collected about an individual under the applicable customer identification procedure with respect to individuals set out in an AML/CTF program;
- (7) if any of the trustees is a company, then in respect of one of those companies – the information required to be collected about a company under the applicable customer identification procedure with respect to companies set out in an AML/CTF program; and
- (8) if the trustees comprise individuals and companies then in respect of either an individual or a company – the information required to be collected about the individual or company (as the case may be) under the applicable customer identification with respect to the individual or company set out in an AML/CTF program.

4.4.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.4.3, any other KYC information relating to the trust's existence will be collected in respect of a trust.

4.4.5 An AML/CTF program must include a procedure for the reporting entity to verify, at a minimum

- (1) the full name (if any) of the trust;
- (2) if any of the trustees is an individual, then in respect of one of those individuals – information about the individual in accordance with the applicable customer identification procedure with respect to individuals set out in an AML/CTF program;
- (3) if any of the trustees is a company, then in respect of one of those companies – information about the company in accordance with the applicable customer identification procedure with respect to companies set out in an AML/CTF program;
- (4) if the trustees comprise individuals and companies then in respect of either an individual or a company – the information about the individual or company (as

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the case may be) in accordance with the applicable procedures with respect to the individual or company set out in an AML/CTF program; and

- (5) the full name of the settlor of the trust, unless:
- (a) the material asset contribution to the trust by the settlor at the time the trust is established is less than \$10,000; or
 - (b) the settlor is deceased; or
 - (c) the trust is verified using the simplified trustee verification procedure under paragraph 4.4.8 of these Rules; or
 - (d) the customer is a custodian.

Note: 'Custodian' is defined in subparagraph 4.4.19(1) of these Rules.

4.4.6 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether and to what extent, in addition to the KYC information referred to in paragraph 4.4.5, any other KYC information relating to the trust's existence collected in respect of the trust should be verified.

4.4.7 In determining whether, and what, additional information will be collected and/or verified in respect of a trust pursuant to paragraphs 4.4.4 and/or 4.4.6, the reporting entity must have regard to ML/TF risk relevant to the provision of the Designated Service.

4.4.8 If an AML/CTF program includes the simplified trustee verification procedure described below with respect to a trust that is:

- (1) a managed investment scheme registered by ASIC;
- (2) a managed investment scheme that is not registered by ASIC and that:
 - (a) only has wholesale clients; and
 - (b) does not make small scale offerings to which section 1012E of the *Corporations Act 2001* applies;
- (3) registered and subject to the regulatory oversight of a Commonwealth statutory regulator in relation to its activities as a trust; or
- (4) a government superannuation fund established by legislation;

an AML/CTF program is taken to comply with the requirements of paragraphs 4.4.5, 4.4.6 and 4.4.7 of these Rules in so far as those customers are concerned.

Simplified Trustee Verification Procedure

The reporting entity must verify that the trust is:

- (1) a managed investment scheme registered by ASIC;

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- (2) a managed investment scheme that is not registered by ASIC and that:
 - (a) only has wholesale clients; and
 - (b) does not make small scale offerings to which section 1012E of the *Corporations Act 2001* applies;
- (3) registered and subject to the regulatory oversight of a Commonwealth statutory regulator in relation to its activities as a trust; or
- (4) a government superannuation fund established by legislation.

Trustees and beneficiaries – collection and verification of information

4.4.9 Subject to paragraph 4.4.18, an AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information about a customer (other than a trustee in respect of a trust to which paragraph 4.4.13 or 4.4.14 applies):

- (1) the full name and address of each trustee in respect of the trust; and
- (2) either:
 - (a) the full name of each beneficiary in respect of the trust; or
 - (b) if the terms of the trust identify the beneficiaries by reference to membership of a class – details of the class.

4.4.10 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.4.9, any other KYC information relating to the trustees, or beneficiaries will be collected in respect of the trust.

4.4.11 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether and, if so, in what manner to verify the name of any or each trustee or beneficiary, or details of any or each class of beneficiaries, or any other KYC information collected pursuant to a procedure of the kind described in paragraph 4.4.9, from the sources described in paragraph 4.4.15.

4.4.12 An AML/CTF program must include a requirement that, in determining whether and what KYC information will be collected and/or verified in respect of a trust and the extent to which any KYC information is verified, pursuant to a procedure of the kind described in paragraphs 4.4.10 and/or 4.4.11, the reporting entity must have regard to ML/TF risk relevant to the provision of the Designated Service.

4.4.13 An AML/CTF program need not include the requirements specified in paragraphs 4.4.9 to 4.4.12 in relation to a trust that is:

- (1) a managed investment scheme registered by ASIC;
- (2) a managed investment scheme that is not registered by ASIC and that:
 - (a) only has wholesale clients; and

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- (b) does not make small scale offerings to which section 1012E of the *Corporations Act 2001* applies; or
 - (3) a government superannuation fund established by legislation.
- 4.4.14 An AML/CTF program need not include the requirements specified in paragraph 4.4.9 in relation to a trust that is registered and subject to the regulatory oversight of a Commonwealth statutory regulator in relation to its activities as a trust.

Methods of verification

- 4.4.15 Subject to paragraph 4.4.16, an AML/CTF program must require that the verification of information about a trust be based on:
- (1) a trust deed, certified copy or certified extract of a trust deed;
 - (2) reliable and independent documents relating to the trust;
 - (3) reliable and independent electronic data; or
 - (4) a combination of (1) to (3) above.
- 4.4.16 For the purposes of subparagraph 4.4.15(2), ‘reliable and independent documents relating to the trust’ includes a disclosure certificate that verifies information about a trust where:
- (1) the verification is for the purposes of a procedure of the kind described in paragraphs 4.4.6 or 4.4.11 of these Rules; and
 - (2) the information to be verified is not otherwise reasonably available from the sources described in paragraph 4.4.15.

Responding to discrepancies

- 4.4.17 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to any discrepancy that arises in the course of verifying information about a customer so that the reporting entity can determine whether it is reasonably satisfied about the matters referred to in subparagraphs 4.4.2(1) and (2).

Trustees who are custodians

- 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 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 is providing a custodial or depository service:

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- (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 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 custodians; and*
- (b) *beneficial owner information, other than information relating to the underlying customers of custodians.*

4.4.19 For the purpose of Part 4.4 of these AML/CTF Rules:

- (1) ‘custodian’ means a company that:
 - (a) is acting in the capacity of a trustee; and
 - (b) is providing a custodial or depository service of the kind described in item 46 of table 1 in subsection 6(2) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act); and
 - (c) either:
 - (i) holds an Australian financial services licence authorising it to provide custodial or depository services under the *Corporations Act 2001*; or
 - (ii) is exempt under the *Corporations Act 2001* from the requirement to hold such a licence; and
 - (d) either:
 - (i) satisfies one of the ‘geographical link’ tests in subsection 6(6) of the AML/CTF Act; or
 - (ii) has certified in writing to the relevant reporting entity that its name and enrolment details are entered on the Reporting Entities Roll; and
 - (e) has certified in writing to the relevant reporting entity that it has carried out all applicable customer identification procedures and ongoing customer due diligence requirements in accordance with Chapter 15 of

the AML/CTF Rules in relation to its underlying customers prior to, or at the time of, becoming a customer of the reporting entity.

- (2) 'IDPS' has the same meaning as in ASIC Class Order [CO 13/763] – *Investor directed portfolio services*, or any legislative instrument that replaces that class order.
- (3) 'MDA service' has the same meaning as in the *ASIC Corporations (Managed Discretionary Account Services) Instrument 2016/968*, or any legislative instrument that replaces that instrument.
- (4) '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.
- (5) 'Reporting Entities Roll' has the meaning given by section 51C of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Part 4.5 Applicable customer identification procedure with respect to partners

- 4.5.1 In so far as a reporting entity has any customer who acts in the capacity of a partner in a partnership, an AML/CTF program must comply with the requirements specified in Part 4.5 of these Rules.
- 4.5.2 An AML/CTF program must include appropriate risk-based systems and controls that are designed to enable the reporting entity to be reasonably satisfied, where a person notifies the reporting entity that the person is a customer of the reporting entity in the person's capacity as a partner in a partnership, that:
 - (1) the partnership exists; and
 - (2) the name of each of the partners in the partnership has been provided in accordance with subparagraph 4.5.3(5).

Collection and verification of information

- 4.5.3 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information and documentation about a customer:
 - (1) the full name of the partnership;
 - (2) the full business name (if any) of the partnership as registered under any State or Territory business names legislation;
 - (3) the country in which the partnership was established;
 - (4) in respect of one of the partners - the information required to be collected about an individual under the applicable customer identification procedure with respect to individuals set out in an AML/CTF program; and

- (5) the full name and residential address of each partner in the partnership except where the regulated status of the partnership is confirmed through reference to the current membership Directory of the relevant professional association.
- 4.5.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the information referred to in paragraph 4.5.3, any other KYC information will be collected in respect of a partnership.
- 4.5.5 An AML/CTF program must include a procedure for the reporting entity to verify at a minimum:
- (1) the full name of the partnership from the partnership agreement, certified copy or certified extract of the partnership agreement, reliable and independent documents relating to the partnership or reliable and independent electronic data; and
 - (2) information about one of the partners in accordance with the applicable customer identification procedure with respect to individuals set out in an AML/CTF program.
- 4.5.6 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, and to what extent, in addition to the KYC information referred to in paragraph 4.5.5, any other KYC information collected in respect of the partnership should be verified.

Methods of verification

- 4.5.7 Subject to paragraph 4.5.8, an AML/CTF program must require that the verification of information about a partnership be based on:
- (1) a partnership agreement, certified copy or certified extract of a partnership agreement;
 - (2) a certified copy or certified extract of minutes of a partnership meeting;
 - (3) reliable and independent documents relating to the partnership;
 - (4) reliable and independent electronic data; or
 - (5) a combination of (1) to (4) above.
- 4.5.8 For the purposes of subparagraph 4.5.7(3), ‘reliable and independent documents relating to the partnership’ includes a disclosure certificate that verifies information about a partnership where:
- (1) the verification is for the purposes of a procedure of the kind described in paragraph 4.5.6 of these Rules; and
 - (2) the information to be verified is not otherwise reasonably available from the sources described in paragraph 4.5.7.

Responding to discrepancies

- 4.5.9 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to any discrepancy that arises in the course of verifying information about a customer so that the reporting entity can determine whether it is reasonably satisfied about the matters referred to in subparagraphs 4.5.2(1) and (2).

Part 4.6 Applicable customer identification procedure with respect to associations

- 4.6.1 In so far as a reporting entity has any customer who is an incorporated or unincorporated association, an AML/CTF program must comply with the requirements specified in Part 4.6 of these Rules.
- 4.6.2 An AML/CTF program must include appropriate risk-based systems and controls that are designed to enable the reporting entity to be reasonably satisfied, where a customer notifies the reporting entity that it is an incorporated or unincorporated association, that:
- (1) the association exists; and
 - (2) the names of any members of the governing committee (howsoever described) of the association have been provided.

Collection and verification of information

- 4.6.3 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information about an incorporated or unincorporated association:
- (1) if the customer notifies the reporting entity that it is an incorporated association:
 - (a) the full name of the association;
 - (b) the full address of the association's principal place of administration or registered office (if any) or the residential address of the association's public officer or (if there is no such person) the association's president, secretary or treasurer;
 - (c) any unique identifying number issued to the association upon its incorporation by the State, Territory or overseas body responsible for the incorporation of the association; and
 - (d) the full name of the chairman, secretary and treasurer or equivalent officer in each case of the association; and
 - (2) if the person notifies the reporting entity that he or she is a customer in his or her capacity as a member of an unincorporated association:
 - (a) the full name of the association;

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- (b) the full address of the association's principal place of administration (if any);
 - (c) the full name of the chairman, secretary and treasurer or equivalent officer in each case of the association; and
 - (d) in respect of the member – the information required to be collected about an individual under the applicable customer identification procedure with respect to individuals set out in an AML/CTF program.
- 4.6.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.6.3, any other KYC information will be collected in respect of an association.
- 4.6.5 An AML/CTF program must include a procedure for the reporting entity to at a minimum:
- (1) if the customer is an incorporated association - verify information provided by ASIC or by the State, Territory or overseas body responsible for the incorporation of the association or from the rules or constitution of the association or from a certified copy or certified extract of the rules or constitution of the association or from reliable and independent documents relating to the association or from reliable and independent electronic data:
 - (a) the full name of the incorporated association; and
 - (b) any unique identifying number issued to the incorporated association upon its incorporation; and
 - (2) if the customer notifies the reporting entity that he or she is a customer in his or her capacity as a member of an unincorporated association:
 - (a) verify the full name (if any) of the association from the rules or constitution of the association or from a certified copy or certified extract of the rules or constitution of the association or from reliable and independent documents relating to the association or from reliable and independent electronic data; and
 - (b) verify information about the member in accordance with the applicable customer identification procedure with respect to individuals set out in an AML/CTF program.
- 4.6.6 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether and to what extent, in addition to the KYC information referred to in paragraph 4.6.5, any other KYC information collected in respect of the association should be verified.

Methods of verification

- 4.6.7 Subject to paragraph 4.6.8, an AML/CTF program must require that the verification of information about an association be based on:
- (1) the constitution or rules of the association or a certified copy or certified extract of the constitution or rules of the association;
 - (2) the minutes of meeting of the association or a certified copy or certified extract of minutes of meeting of the association;
 - (3) in the case of an incorporated association, information provided by ASIC or by the State, Territory or overseas body responsible for the incorporation of the association;
 - (4) reliable and independent documents relating to the association;
 - (5) reliable and independent electronic data; or
 - (6) a combination of (1)–(5) above.
- 4.6.8 For the purposes of subparagraph 4.6.7(4), ‘reliable and independent documents relating to the association’ includes a disclosure certificate that verifies information about an association where:
- (1) the verification is for the purposes of a procedure of the kind described in paragraph 4.6.6 of these Rules; and
 - (2) the information to be verified is not otherwise reasonably available from the sources described in paragraph 4.6.7.

Responding to discrepancies

- 4.6.9 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to any discrepancy that arises in the course of verifying information about an association so that the reporting entity can determine whether it is reasonably satisfied about the matters referred to in subparagraphs 4.6.2(1) and (2).

Part 4.7 Applicable customer identification procedure with respect to registered co-operatives

- 4.7.1 In so far as a reporting entity has any customer who is a registered co-operative, an AML/CTF program must comply with the requirements specified in Part 4.7 of these Rules.
- 4.7.2 An AML/CTF program must include appropriate risk-based systems and controls that are designed to enable the reporting entity to be reasonably satisfied, where a customer notifies the reporting entity that it is a registered co-operative, that:
- (1) the co-operative exists; and

- (2) the names of the chairman, secretary or equivalent officer in each case of the co-operative have been provided.

Collection and verification of information

4.7.3 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information about a registered co-operative:

- (1) the full name of the co-operative;
- (2) the full address of the co-operative's registered office or principal place of operations (if any) or the residential address of the co-operative's secretary or (if there is no such person) the co-operative's president or treasurer;
- (3) any unique identifying number issued to the co-operative upon its registration by the State, Territory or overseas body responsible for the registration of the co-operative; and
- (4) the full name of the chairman, secretary and treasurer or equivalent officer in each case of the co-operative.

4.7.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the information referred to in paragraph 4.7.3, any other KYC information will be collected in respect of a registered co-operative.

4.7.5 An AML/CTF program must include a procedure for the reporting entity to, at a minimum, verify from information provided by ASIC or by the State, Territory or overseas body responsible for the registration of the co-operative or from any register maintained by the co-operative or a certified copy or certified extract of any register maintained by the co-operative or from reliable and independent documents relating to the co-operative or from reliable and independent electronic data:

- (1) the full name of the co-operative; and
- (2) any unique identifying number issued to the co-operative upon its registration.

4.7.6 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether and to what extent, in addition to the KYC information referred to in paragraph 4.7.5, any other KYC information relating to the registered co-operative should be verified.

Methods of verification

4.7.7 Subject to paragraph 4.7.8, an AML/CTF program must require that the verification of information about a registered co-operative be based on:

- (1) any register maintained by the co-operative or a certified copy or certified extract of any register maintained by the co-operative;
- (2) any minutes of meeting of the co-operative or a certified copy or certified extract of any minutes of meeting of the co-operative;

- (3) information provided by the State, Territory or overseas body responsible for the registration of the co-operative;
- (4) reliable and independent documents relating to the co-operative;
- (5) reliable and independent electronic data; or
- (6) a combination of (1)–(5) above.

4.7.8 For the purposes of subparagraph 4.7.7(4), ‘reliable and independent documents relating to the co-operative’ includes a disclosure certificate that verifies information about a registered co-operative where:

- (1) the verification is for the purposes of a procedure of the kind described in paragraph 4.7.7 of these Rules; and
- (2) the information to be verified is not otherwise reasonably available from the sources described in paragraph 4.7.7.

Responding to discrepancies

4.7.9 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to any discrepancy that arises in the course of verifying information about a registered co-operative so that the reporting entity can determine whether it is reasonably satisfied about the matters referred to in subparagraphs 4.7.2(1) and (2).

Part 4.8 Applicable customer identification procedure with respect to government bodies

4.8.1 In so far as a reporting entity has any customer who is a government body an AML/CTF program must comply with the requirements specified in Part 4.8 and (in so far as they are applicable) Parts 4.9 and 4.10.

4.8.2 An AML/CTF program must include appropriate risk-based systems and controls that are designed to enable the reporting entity to be reasonably satisfied, where a customer notifies the reporting entity that it is a government body, that:

- (1) the government body exists; and
- (2) in the case of certain kinds of government bodies – information about the beneficial owners of the government body has been provided, where sought by the reporting entity.

Collection and verification of information

4.8.3 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following KYC information about a government body:

- (1) the full name of the government body;

- (2) the full address of the government body's principal place of operations;
 - (3) whether the government body is an entity or emanation, or is established under legislation, of the Commonwealth; and
 - (4) whether the government body is an entity or emanation, or is established under legislation, of a State, Territory, or a foreign country and the name of that State, Territory or country.
- 4.8.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the KYC information referred to in paragraph 4.8.3 above, any other KYC information will be collected in respect of a government body.
- 4.8.5 An AML/CTF program must include a procedure for the reporting entity to verify the information collected under paragraph 4.8.3 from reliable and independent documentation, reliable and independent electronic data or a combination of both.
- 4.8.6 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to carrying out the procedure described in paragraph 4.8.5, any KYC information collected under paragraph 4.8.4 should be verified.

Beneficial ownership in respect of foreign government entities

- 4.8.7 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether to collect any KYC information about the ownership or control of a government body that is an entity or emanation, or is established under legislation, of a foreign country.
- 4.8.8 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether to verify any KYC information collected pursuant to a procedure of the kind described in paragraph 4.8.7 from reliable and independent documentation, reliable and independent electronic data or a combination of both.

Responding to discrepancies

- 4.8.9 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to any discrepancy that arises in the course of verifying information about a government body so that the reporting entity can determine whether it is reasonably satisfied about the matters referred to in subparagraphs 4.8.2(1) and (2).

Part 4.9 Verification from documentation

Verification with respect to individuals

- 4.9.1 In so far as an AML/CTF program provides for the verification of KYC information about an individual by means of reliable and independent documentation, an

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AML/CTF program must comply with the requirements specified in paragraphs 4.9.2 and 4.9.3.

- 4.9.2 An AML/CTF program must require that the reporting entity be satisfied that any document from which the reporting entity verifies KYC information about an individual has not expired (other than in the case of a passport issued by the Commonwealth that expired within the preceding two years).
- 4.9.3 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine:
- (1) what reliable and independent documentation the reporting entity will require for the purpose of verifying the individual's name and date of birth and/or residential address (as the case may be);
 - (2) if any other KYC information about an individual is to be verified – what reliable and independent documentation may be used to verify that information;
 - (3) whether, and in what circumstances, the reporting entity is prepared to rely upon a copy of a reliable and independent document;
 - (4) in what circumstances a reporting entity will take steps to determine whether a document produced about an individual may have been forged, tampered with, cancelled or stolen and, if so, what steps the reporting entity will take to establish whether or not the document has been forged, tampered with, cancelled or stolen;
 - (5) whether the reporting entity will use any authentication service that may be available in respect of a document; and
 - (6) whether, and how, to confirm KYC information about an individual by independently initiating contact with the person that the individual claims to be.

Verification with respect to persons other than individuals

- 4.9.4 In so far as an AML/CTF program provides for the verification of KYC information about a customer who is not an individual by means of reliable and independent documentation, an AML/CTF program must comply with the requirements specified in paragraph 4.9.5.
- 4.9.5 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine:
- (1) what and how many reliable and independent documents the reporting entity will use for the purpose of verification;
 - (2) whether a document is sufficiently contemporaneous for use in verification;
 - (3) whether, and in what circumstances, the reporting entity is prepared to rely upon a copy of a reliable and independent document;

- (4) in what circumstances the reporting entity will take steps to determine whether a document produced about a customer may have been cancelled, forged, tampered with or stolen and, if so, what steps the reporting entity will take to establish whether or not the document has been cancelled, forged, tampered with or stolen;
- (5) whether the reporting entity will use any authentication service that may be available in respect of a document; and
- (6) whether, and how, to confirm information about a customer by independently initiating contact with the customer.

Part 4.10 Verification from reliable and independent electronic data

4.10.1 In so far as an AML/CTF program provides for the verification of KYC information collected about a customer by means of reliable and independent electronic data, an AML/CTF program must comply with the requirements specified in paragraph 4.10.2.

4.10.2 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine:

- (1) whether the electronic data is reliable and independent, taking into account the following factors:
 - (a) the accuracy of the data;
 - (b) how secure the data is;
 - (c) how the data is kept up-to-date;
 - (d) how comprehensive the data is (for example, by reference to the range of persons included in the data and the period over which the data has been collected);
 - (e) whether the data has been verified from a reliable and independent source;
 - (f) whether the data is maintained by a government body or pursuant to legislation; and
 - (g) whether the electronic data can be additionally authenticated; and
- (2) what reliable and independent electronic data the reporting entity will use for the purpose of verification;
- (3) the reporting entity's pre-defined tolerance levels for matches and errors; and
- (4) whether, and how, to confirm KYC information collected about a customer by independently initiating contact with the person that the customer claims to be.

Part 4.11 Agents of customers

Agents of customers who are individuals

- 4.11.1 For the purposes of paragraph 89(1)(b) and 89(2)(b) of the AML/CTF Act, paragraphs 4.11.2 to 4.11.4 of these Rules apply in relation to an agent of a customer who is an individual where that agent is authorised to act for or on behalf of the customer in relation to a Designated Service.
- 4.11.2 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following information and documentation (if any) about the customer:
- (1) the full name of each individual who purports to act for or on behalf of the customer with respect to the provision of a Designated Service by the reporting entity; and
 - (2) evidence (if any) of the customer's authorisation of any individual referred to in subparagraph 4.11.2(1).
- 4.11.3 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, and to what extent, it should verify the identity of any of the individuals referred to in subparagraph 4.11.2(1).
- 4.11.4 An AML/CTF program must require the reporting entity to have regard to the ML/TF risk relevant to the provision of the Designated Service for the purposes of determining whether, and to what extent, it should verify the identity of any of the individuals referred to in paragraph 4.11.2(1).
- 4.11.5 For the purposes of paragraphs 89(1)(b) and 89(2)(b) of the AML/CTF Act, paragraphs 4.11.6 to 4.11.8 of these Rules apply in relation to an agent of a customer who is not acting in his or her capacity as an individual where that agent is authorised to act for or on behalf of the customer in relation to a Designated Service.
- 4.11.6 An AML/CTF program must include a procedure for the reporting entity to collect, at a minimum, the following information and documentation about the customer:
- (1) the full name of each individual who purports to act for or on behalf of the customer with respect to the provision of a Designated Service by the reporting entity; and
 - (2) evidence of the customer's authorisation of any individual referred to in subparagraph 4.11.6(1).
- 4.11.7 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, and to what extent, it should verify the identity of any of the individuals referred to in subparagraph 4.11.6(1).
- 4.11.8 An AML/CTF program must require the reporting entity to have regard to the ML/TF risk relevant to the provision of the Designated Service for the purposes of

determining whether, and to what extent, it should verify the identity of any of the individuals referred to in subparagraph 4.11.6(1).

Verifying officers and agents of non-natural customers

4.11.9 An AML/CTF program may provide for an agent of a customer who is a non-natural person to be identified by the customer's verifying officer, provided the requirements in paragraphs 4.11.12 to 4.11.13 are met.

4.11.10 In so far as:

- (1) an AML/CTF program provides for an agent of a non-natural customer to be identified by a verifying officer; and
 - (2) the requirements in paragraphs 4.11.12 to 4.11.13 of these Rules are met;
- an AML/CTF program need not apply the requirements in 4.11.6 to 4.11.8 of these Rules in relation to that agent.

Appointment of a verifying officer

4.11.11 A verifying officer is a person appointed by a customer to act as a verifying officer for the purposes of these Rules. A person may be appointed as a verifying officer if he or she is an employee, agent or contractor of the customer.

Identification by a verifying officer

4.11.12 Where an AML/CTF program provides for an agent to be identified by a verifying officer, an AML/CTF program must include a requirement for:

- (1) the agent to be identified by the customer's verifying officer in accordance with paragraph 4.11.13 of these Rules;
- (2) the verifying officer to be identified and verified by the reporting entity in accordance with the requirements specified in Chapter 4 of these Rules;
- (3) the reporting entity to be provided with evidence of the customer's authorisation of the verifying officer to act as a verifying officer;
- (4) the verifying officer to make and for the customer to retain, a record of all matters collected pursuant to paragraph 4.11.13; and
- (5) the verifying officer to provide the following to the reporting entity:
 - (a) the full name of the agent; and
 - (b) a copy of the signature of the agent.

4.11.13 A verifying officer will be taken to have identified an agent if he or she has collected the following:

- (1) the full name of the agent;

- (2) the title of the position or role held by the agent with the customer;
- (3) a copy of the signature of the agent; and
- (4) evidence of the agent's authorisation to act on behalf of the customer.

Part 4.12 Collection and Verification of Beneficial Owner information

4.12.1 An AML/CTF program must include appropriate systems and controls for the reporting entity to determine the beneficial owner of each customer and carry out the following, either before the provision of a Designated Service to the customer or as soon as practicable after the Designated Service has been provided:

- (1) collect, (including from the customer, where applicable) and take reasonable measures to verify:
 - (a) each beneficial owner's full name, and
 - (b) the beneficial owner's date of birth; or
 - (c) the beneficial owner's full residential address.

4.12.2 The requirements of paragraph 4.12.1 may be modified:

- (1) for a customer who is an individual, the reporting entity may assume that the customer and the beneficial owner are one and the same, unless the reporting entity has reasonable grounds to consider otherwise;
- (2) for a customer who is:
 - (a) a company which is verified under the simplified company verification procedure under paragraph 4.3.8 of these Rules;
 - (b) a trust which is verified under the simplified trustee verification procedure under paragraph 4.4.8 of these Rules;
 - (c) an Australian Government Entity; or
 - (d) a foreign listed public company, or a majority-owned subsidiary of such a company, subject to disclosure requirements (whether by stock exchange rules or through law or enforceable means) that ensure transparency of beneficial ownership;

then,

- (e) paragraph 4.12.1 need not be applied.

Note: The terms 'foreign company', 'listed public company' and 'foreign listed public company' are defined in Chapter 1 of the AML/CTF Rules.

4.12.3 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the information referred to

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in paragraph 4.12.1 above, any other information will be collected and verified about any beneficial owner.

Note: Reporting entities should consider the requirements in the Privacy Act 1988 relating to the collection and handling of information about beneficial owners.

Verification

4.12.4 An AML/CTF program must require that the verification of information collected about each beneficial owner of a customer be based on:

- (1) reliable and independent documentation;
- (2) reliable and independent electronic data; or
- (3) a combination of (1) and (2) above.

Safe harbour procedure where ML/TF risk of the beneficial owner is medium or lower

4.12.5 Paragraph 4.12.7 sets out one procedure for documentation-based verification (subparagraphs 4.12.7(2) and (3)) and electronic verification (subparagraph 4.12.7(4)) which a reporting entity may include in its AML/CTF program to comply with its obligations under paragraph 4.12.1 of these Rules where the customer and the beneficial owner of the customer is of medium or lower ML/TF risk. Paragraph 4.12.7 does not preclude a reporting entity from meeting the verification requirements of paragraph 4.12.1 of these Rules in another way where the beneficial owners of the customer are of medium or lower ML/TF risk.

4.12.6 Paragraph 4.12.7 is not applicable if any beneficial owner is a foreign politically exposed person.

4.12.7 An AML/CTF program that requires the reporting entity to do the following will be taken to meet the requirements of paragraph 4.12.1 of these Rules in respect of the beneficial owners of a customer, where a reporting entity determines that the relationship with that customer and the beneficial owner is of medium or lower risk:

- (1) collect the information described in paragraph 4.12.1 in regard to each beneficial owner;

Documentation-based safe harbour procedure

- (2) verify each beneficial owner's full name and either the beneficial owner's full residential address or date of birth, or both, from:
 - (a) an original or certified copy of a primary photographic identification document; or
 - (b) both:
 - (i) an original or certified copy of a primary non-photographic identification document; and

- (ii) an original or certified copy of a secondary identification document; and
- (3) verify the document produced by the customer in regard to each beneficial owner has not expired (other than in the case of a passport issued by the Commonwealth that expired within the preceding two years);

Electronic-based safe harbour procedure

- (4) verify each beneficial owner's full name and either the beneficial owner's full residential address or date of birth, or both, using reliable and independent electronic data from at least two separate data sources.

Responding to discrepancies

- 4.12.8 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to any discrepancy that arises in the course of verifying information collected about each beneficial owner so that the reporting entity can determine that it is reasonably satisfied that each beneficial owner is the person that the customer claims they are.

Procedure to follow where unable to determine the identity of the beneficial owner

- 4.12.9 If the reporting entity is unable to ascertain a beneficial owner, the reporting entity must identify and take reasonable measures to verify:
- (1) for a company (other than a company which is verified under the simplified company verification procedure under paragraph 4.3.8 of these Rules) or a partnership, any individual who:
 - (a) is entitled (either directly or indirectly) to exercise 25% or more of the voting rights, including a power of veto, or
 - (b) holds the position of senior managing official (or equivalent);
 - (2) for a trust (other than a trust which is verified under the simplified trustee verification procedure under paragraph 4.4.8 of these Rules), any individual who holds the power to appoint or remove the trustees of the trust;
 - (3) for an association or a registered co-operative, any individual who:
 - (a) is entitled (either directly or indirectly) to exercise 25% or more of the voting rights including a power of veto, or
 - (b) would be entitled on dissolution to 25% or more of the property of the association or registered co-operative, or
 - (c) holds the position of senior managing official (or equivalent).

Note: In addition to the verification procedures set out in Part 4.12, a reporting entity may be able to use a disclosure certificate. Details regarding disclosure certificates are set out in Chapter 30 of the AML/CTF Rules.

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Part 4.13 Collection and Verification of Politically Exposed Person information

4.13.1 An AML/CTF program must include appropriate risk-management systems to determine whether a customer or beneficial owner is a politically exposed person. The determination must occur either before the provision of a Designated Service to the customer or as soon as practicable after the Designated Service has been provided. If it is determined that the customer or beneficial owner is a politically exposed person, the reporting entity must carry out the applicable steps in this Part.

4.13.2 An AML/CTF program must include appropriate risk-management systems for the reporting entity to undertake each of the following steps for domestic politically exposed persons and international organisation politically exposed persons:

- (1) in the case of a beneficial owner, comply with the identification requirements specified in paragraphs 4.2.3 to 4.2.9 of these Rules as if the politically exposed person was the customer; and
- (2) determine whether the person is of high ML/TF risk; and
- (3) if the person is determined to be of high ML/TF risk, then, in addition to the action specified in subparagraph 4.13.2(1), carry out the actions specified in subparagraphs 4.13.3(2), (3) and (4).

4.13.3 An AML/CTF program must include appropriate risk-management systems for the reporting entity to undertake each of the following steps for foreign politically exposed persons and for high ML/TF risk domestic or international organisation politically exposed persons:

- (1) in the case of a beneficial owner, comply with the identification requirements specified in paragraphs 4.2.3 to 4.2.9 of these Rules as if the politically exposed person was the customer; and
- (2) obtain senior management approval before establishing or continuing a business relationship with the individual and before the provision, or continued provision, of a Designated Service to the customer;
- (3) take reasonable measures to establish the politically exposed person's source of wealth and source of funds; and
- (4) comply with the obligations in Chapter 15 of these Rules.

4.13.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to any discrepancy that arises in the course of verifying information collected about a politically exposed person, so that the reporting entity can be reasonably satisfied that the politically exposed person is the person that he or she claims to be.

Note: Reporting entities should consider the requirements in the Privacy Act 1988 relating to the collection and handling of sensitive information about politically exposed persons.

Part 4.9 Verification from documentation

Verification with respect to individuals

- 4.9.1 In so far as an AML/CTF program provides for the verification of KYC information about an individual by means of reliable and independent documentation, an AML/CTF program must comply with the requirements specified in paragraphs 4.9.2 and 4.9.3.
- 4.9.2 An AML/CTF program must require that the reporting entity be satisfied that any document from which the reporting entity verifies KYC information about an individual has not expired (other than in the case of a passport issued by the Commonwealth that expired within the preceding two years).
- 4.9.3 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine:
- (1) what reliable and independent documentation the reporting entity will require for the purpose of verifying the individual's name and date of birth and/or residential address (as the case may be);
 - (2) if any other KYC information about an individual is to be verified – what reliable and independent documentation may be used to verify that information;
 - (3) whether, and in what circumstances, the reporting entity is prepared to rely upon a copy of a reliable and independent document;
 - (4) in what circumstances a reporting entity will take steps to determine whether a document produced about an individual may have been forged, tampered with, cancelled or stolen and, if so, what steps the reporting entity will take to establish whether or not the document has been forged, tampered with, cancelled or stolen;
 - (5) whether the reporting entity will use any authentication service that may be available in respect of a document; and
 - (6) whether, and how, to confirm KYC information about an individual by independently initiating contact with the person that the individual claims to be.

Verification with respect to persons other than individuals

- 4.9.4 In so far as an AML/CTF program provides for the verification of KYC information about a customer who is not an individual by means of reliable and independent documentation, an AML/CTF program must comply with the requirements specified in paragraph 4.9.5.

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4.9.5 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine:

- (1) what and how many reliable and independent documents the reporting entity will use for the purpose of verification;
- (2) whether a document is sufficiently contemporaneous for use in verification;
- (3) whether, and in what circumstances, the reporting entity is prepared to rely upon a copy of a reliable and independent document;
- (4) in what circumstances the reporting entity will take steps to determine whether a document produced about a customer may have been cancelled, forged, tampered with or stolen and, if so, what steps the reporting entity will take to establish whether or not the document has been cancelled, forged, tampered with or stolen;
- (5) whether the reporting entity will use any authentication service that may be available in respect of a document; and
- (6) whether, and how, to confirm information about a customer by independently initiating contact with the customer.

Chapter 4, Part 4.10 – Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)

Part 4.10 Verification from reliable and independent electronic data

4.10.1 In so far as an AML/CTF program provides for the verification of KYC information collected about a customer by means of reliable and independent electronic data, an AML/CTF program must comply with the requirements specified in paragraph 4.10.2.

4.10.2 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine:

- (1) whether the electronic data is reliable and independent, taking into account the following factors:
 - (a) the accuracy of the data;
 - (b) how secure the data is;
 - (c) how the data is kept up-to-date;
 - (d) how comprehensive the data is (for example, by reference to the range of persons included in the data and the period over which the data has been collected);
 - (e) whether the data has been verified from a reliable and independent source;

- (f) whether the data is maintained by a government body or pursuant to legislation; and
- (g) whether the electronic data can be additionally authenticated; and
- (2) what reliable and independent electronic data the reporting entity will use for the purpose of verification;
- (3) the reporting entity's pre-defined tolerance levels for matches and errors; and
- (4) whether, and how, to confirm KYC information collected about a customer by independently initiating contact with the person that the customer claims to be.

Chapter 4, Part 4.12 - Anti-Money Laundering and Terrorism Financing Rules Instrument 2007 (No. 1)

Part 4.12 Collection and Verification of Beneficial Owner information

4.12.1 An AML/CTF program must include appropriate systems and controls for the reporting entity to determine the beneficial owner of each customer and carry out the following, either before the provision of a Designated Service to the customer or as soon as practicable after the Designated Service has been provided:

- (1) collect, (including from the customer, where applicable) and take reasonable measures to verify:
 - (a) each beneficial owner's full name, and
 - (b) the beneficial owner's date of birth; or
 - (c) the beneficial owner's full residential address.

4.12.2 The requirements of paragraph 4.12.1 may be modified:

- (1) for a customer who is an individual, the reporting entity may assume that the customer and the beneficial owner are one and the same, unless the reporting entity has reasonable grounds to consider otherwise;
- (2) for a customer who is:
 - (a) a company which is verified under the simplified company verification procedure under paragraph 4.3.8 of these Rules;
 - (b) a trust which is verified under the simplified trustee verification procedure under paragraph 4.4.8 of these Rules;
 - (c) an Australian Government Entity; or

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- (d) a foreign listed public company, or a majority-owned subsidiary of such a company, subject to disclosure requirements (whether by stock exchange rules or through law or enforceable means) that ensure transparency of beneficial ownership;

then,

- (e) paragraph 4.12.1 need not be applied.

Note: The terms 'foreign company', 'listed public company' and 'foreign listed public company' are defined in Chapter 1 of the AML/CTF Rules.

4.12.3 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to determine whether, in addition to the information referred to in paragraph 4.12.1 above, any other information will be collected and verified about any beneficial owner.

Note: Reporting entities should consider the requirements in the Privacy Act 1988 relating to the collection and handling of information about beneficial owners.

Verification

4.12.4 An AML/CTF program must require that the verification of information collected about each beneficial owner of a customer be based on:

- (1) reliable and independent documentation;
- (2) reliable and independent electronic data; or
- (3) a combination of (1) and (2) above.

Safe harbour procedure where ML/TF risk of the beneficial owner is medium or lower

4.12.5 Paragraph 4.12.7 sets out one procedure for documentation-based verification (subparagraphs 4.12.7(2) and (3)) and electronic verification (subparagraph 4.12.7(4)) which a reporting entity may include in its AML/CTF program to comply with its obligations under paragraph 4.12.1 of these Rules where the customer and the beneficial owner of the customer is of medium or lower ML/TF risk. Paragraph 4.12.7 does not preclude a reporting entity from meeting the verification requirements of paragraph 4.12.1 of these Rules in another way where the beneficial owners of the customer are of medium or lower ML/TF risk.

4.12.6 Paragraph 4.12.7 is not applicable if any beneficial owner is a foreign politically exposed person.

4.12.7 An AML/CTF program that requires the reporting entity to do the following will be taken to meet the requirements of paragraph 4.12.1 of these Rules in respect of the beneficial owners of a customer, where a reporting entity determines that the relationship with that customer and the beneficial owner is of medium or lower risk:

- (1) collect the information described in paragraph 4.12.1 in regard to each beneficial owner;

Documentation-based safe harbour procedure

- (2) verify each beneficial owner's full name and either the beneficial owner's full residential address or date of birth, or both, from:
 - (a) an original or certified copy of a primary photographic identification document; or
 - (b) both:
 - (i) an original or certified copy of a primary non-photographic identification document; and
 - (ii) an original or certified copy of a secondary identification document; and
- (3) verify the document produced by the customer in regard to each beneficial owner has not expired (other than in the case of a passport issued by the Commonwealth that expired within the preceding two years);

Electronic-based safe harbour procedure

- (4) verify each beneficial owner's full name and either the beneficial owner's full residential address or date of birth, or both, using reliable and independent electronic data from at least two separate data sources.

Responding to discrepancies

- 4.12.8 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to any discrepancy that arises in the course of verifying information collected about each beneficial owner so that the reporting entity can determine that it is reasonably satisfied that each beneficial owner is the person that the customer claims they are.

Procedure to follow where unable to determine the identity of the beneficial owner

- 4.12.9 If the reporting entity is unable to ascertain a beneficial owner, the reporting entity must identify and take reasonable measures to verify:
- (1) for a company (other than a company which is verified under the simplified company verification procedure under paragraph 4.3.8 of these Rules) or a partnership, any individual who:
 - (a) is entitled (either directly or indirectly) to exercise 25% or more of the voting rights, including a power of veto, or
 - (b) holds the position of senior managing official (or equivalent);
 - (2) for a trust (other than a trust which is verified under the simplified trustee verification procedure under paragraph 4.4.8 of these Rules), any individual who holds the power to appoint or remove the trustees of the trust;

- (3) for an association or a registered co-operative, any individual who:
- (a) is entitled (either directly or indirectly) to exercise 25% or more of the voting rights including a power of veto, or
 - (b) would be entitled on dissolution to 25% or more of the property of the association or registered co-operative, or
 - (c) holds the position of senior managing official (or equivalent).

Note: In addition to the verification procedures set out in Part 4.12, a reporting entity may be able to use a disclosure certificate. Details regarding disclosure certificates are set out in Chapter 30 of the AML/CTF Rules.

Chapter 4, Part 4.13 - Anti-Money Laundering and Terrorism Financing Rules **Instrument 2007 (No. 1)**

Part 4.13 Collection and Verification of Politically Exposed Person information

- 4.13.1 An AML/CTF program must include appropriate risk-management systems to determine whether a customer or beneficial owner is a politically exposed person. The determination must occur either before the provision of a Designated Service to the customer or as soon as practicable after the Designated Service has been provided. If it is determined that the customer or beneficial owner is a politically exposed person, the reporting entity must carry out the applicable steps in this Part.
- 4.13.2 An AML/CTF program must include appropriate risk-management systems for the reporting entity to undertake each of the following steps for domestic politically exposed persons and international organisation politically exposed persons:
- (1) in the case of a beneficial owner, comply with the identification requirements specified in paragraphs 4.2.3 to 4.2.9 of these Rules as if the politically exposed person was the customer; and
 - (2) determine whether the person is of high ML/TF risk; and
 - (3) if the person is determined to be of high ML/TF risk, then, in addition to the action specified in subparagraph 4.13.2(1), carry out the actions specified in subparagraphs 4.13.3(2), (3) and (4).
- 4.13.3 An AML/CTF program must include appropriate risk-management systems for the reporting entity to undertake each of the following steps for foreign politically exposed persons and for high ML/TF risk domestic or international organisation politically exposed persons:
- (1) in the case of a beneficial owner, comply with the identification requirements specified in paragraphs 4.2.3 to 4.2.9 of these Rules as if the politically exposed person was the customer; and

- (2) obtain senior management approval before establishing or continuing a business relationship with the individual and before the provision, or continued provision, of a Designated Service to the customer;
- (3) take reasonable measures to establish the politically exposed person's source of wealth and source of funds; and
- (4) comply with the obligations in Chapter 15 of these Rules.

4.13.4 An AML/CTF program must include appropriate risk-based systems and controls for the reporting entity to respond to any discrepancy that arises in the course of verifying information collected about a politically exposed person, so that the reporting entity can be reasonably satisfied that the politically exposed person is the person that he or she claims to be.

Note: Reporting entities should consider the requirements in the Privacy Act 1988 relating to the collection and handling of sensitive information about politically exposed persons.

Chapter 6 – Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)

CHAPTER 6

Part 6.1 Verification of identity of customers

6.1.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made pursuant to subsection 29(2), subsection 31(2), subparagraph 35(1)(b)(ii), subsection 35(2) and section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

Part 6.2 Verification of the identity of customers for the purposes of section 35

6.2.1 For the purposes of subparagraph 35(1)(b)(ii) of the AML/CTF Act, section 35 will apply to a reporting entity in circumstances where the reporting entity suspects on reasonable grounds that the customer is not the person that he or she claims to be.

6.2.2 Where the circumstance specified in paragraph 6.2.1 above comes into existence, the specified action for the purposes of subsection 35(2) of the AML/CTF Act is set out at paragraph 6.2.3 below.

6.2.3 The reporting entity must, within 14 days commencing after the day on which the circumstance specified in paragraph 6.2.1 above comes into existence, take one or more of the actions specified below:

- (1) collect any KYC information in respect of the customer; or

- (2) verify, from a reliable and independent source, certain KYC information that has been obtained in respect of the customer;

for the purpose of enabling the reporting entity to be reasonably satisfied that the customer is the person that he or she claims to be.

Part 6.3 Verification of the identity of pre-commencement customers

6.3.1 For the purposes of subsection 29(2) of the AML/CTF Act, the specified action is as set out in paragraph 6.3.2.

6.3.2 The reporting entity must, within 14 days commencing after the day on which the suspicious matter reporting obligation arose, take one or more of the actions specified below:

- (1) carry out the applicable customer identification procedure unless the reporting entity has previously carried out or been deemed to have carried out that procedure or a comparable procedure;
- (2) collect any KYC information in respect of the customer; or
- (3) verify, from a reliable and independent source, certain KYC information that has been obtained in respect of the customer;

for the purpose of enabling the reporting entity to be reasonably satisfied that the customer is the person that he or she claims to be.

Part 6.4 Verification of the identity of low-risk service customers

6.4.1 For the purposes of subsection 31(2) of the AML/CTF Act, the specified action is as set out in paragraph 6.4.2 below.

6.4.2 The reporting entity must, within 14 days starting after the day on which the suspicious matter reporting obligation arose, take one or more of the actions specified below:

- (1) carry out the applicable customer identification procedure unless the reporting entity has previously carried out or been deemed to have carried out that procedure or a comparable procedure;
- (2) collect any KYC information in respect of the customer; or
- (3) verify, from a reliable and independent source, certain KYC information that has been obtained in respect of the customer;

for the purpose of enabling the reporting entity to be reasonably satisfied that the customer is the person that he or she claims to be.

Chapter 8, Parts 8.1-8.9 - Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)

CHAPTER 8

Part 8.1 Part A of a standard anti-money laundering and counter-terrorism financing (AML/CTF) program

- 8.1.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made pursuant to section 229 and (in relation to these Rules in Parts 8.1 to 8.7 and 8.9) for the purposes of paragraphs 36(1)(b) and 84(2)(c) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act). Part 7 of the AML/CTF Act obliges a reporting entity to adopt and maintain an AML/CTF program relating to the provision of Designated Services. A standard AML/CTF program is a program that applies to a particular reporting entity. Standard AML/CTF programs are divided into Parts A and B.
- 8.1.2 The primary purpose of Part A of a standard AML/CTF program is to identify, manage and mitigate money laundering or terrorism financing (ML/TF) risk a reporting entity may reasonably face in relation to the provision by the reporting entity of Designated Services at or through a permanent establishment in Australia. These Rules set out the requirements with which Part A of a standard AML/CTF program must comply.

The risk-based approach and ML/TF risk

- 8.1.3 Some of the requirements specified in these Rules may be complied with by a reporting entity putting in place appropriate risk-based systems or controls. When determining and putting in place appropriate risk-based systems or controls, the reporting entity must have regard to the nature, size and complexity of its business and the type of ML/TF risk that it might reasonably face.
- 8.1.4 For the purposes of these Rules, in identifying its ML/TF risk a reporting entity must consider the risk posed by the following factors:
- (1) its customer types, including any politically exposed persons;
 - (2) the types of Designated Services it provides;
 - (3) the methods by which it delivers Designated Services; and
 - (4) the foreign jurisdictions with which it deals.
- 8.1.5 Part A must be designed to enable the reporting entity to:
- (1) understand the nature and purpose of the business relationship with its customer types, including, as appropriate, the collection of information relevant to that understanding; and

- (2) understand the control structure of non-individual customers;
 - (3) identify significant changes in ML/TF risk for the purposes of its Part A and Part B programs, including:
 - (a) risks identified by consideration of the factors in paragraph 8.1.4; and
 - (b) risks arising from changes in the nature of the business relationship, control structure, or beneficial ownership of its customers; and
 - (4) recognise such changes in ML/TF risk for the purposes of the requirements of its Part A and Part B programs; and
 - (5) identify, mitigate and manage any ML/TF risk arising from:
 - (a) all new Designated Services prior to introducing them to the market;
 - (b) all new methods of Designated Service delivery prior to adopting them;
 - (c) all new or developing technologies used for the provision of a Designated Service prior to adopting them; and
 - (d) changes arising in the nature of the business relationship, control structure or beneficial ownership of its customers.
- 8.1.6 Part A must include a requirement that, in determining what is an appropriate risk-based procedure for inclusion in Part B of the reporting entity's standard AML/CTF program, the reporting entity must have regard to ML/TF risk relevant to the provision of the Designated Service.

Application

- 8.1.7 Unless otherwise provided in the AML/CTF Act or these Rules, a reporting entity must apply Part A to all areas of its business that are involved in the provision of a Designated Service, including in relation to any function carried out by a third party.

Part 8.2 AML/CTF risk awareness training program

- 8.2.1 Part A must include an AML/CTF risk awareness training program that meets the requirements of paragraphs 8.2.2 to 8.2.3 below.
- 8.2.2 The AML/CTF risk awareness training program must be designed so that the reporting entity gives its employees appropriate training at appropriate intervals, having regard to ML/TF risk it may reasonably face.
- 8.2.3 The AML/CTF training program must be designed to enable employees to understand:
- (1) the obligations of the reporting entity under the AML/CTF Act and Rules;
 - (2) the consequences of non-compliance with the AML/CTF Act and Rules;

- (3) the type of ML/TF risk that the reporting entity might face and the potential consequences of such risk; and
- (4) those processes and procedures provided for by the reporting entity's AML/CTF program that are relevant to the work carried out by the employee.

Part 8.3 Employee due diligence program

- 8.3.1 Part A must include an employee due diligence program that meets the requirements of paragraphs 8.3.2 to 8.3.4 of these Rules.
- 8.3.2 The employee due diligence program must put in place appropriate risk-based systems and controls for the reporting entity to determine whether to, and in what manner to, screen any prospective employee who, if employed, may be in a position to facilitate the commission of a money laundering or financing of terrorism offence in connection with the provision of a Designated Service by the reporting entity.
- 8.3.3 The employee due diligence program must include appropriate risk-based systems and controls for the reporting entity to determine whether to, and in what manner to, re-screen an employee where the employee is transferred or promoted and may be in a position to facilitate the commission of a money laundering or financing of terrorism offence in connection with the provision of a Designated Service by the reporting entity.
- 8.3.4 The employee due diligence program must establish and maintain a system for the reporting entity to manage any employee who fails, without reasonable excuse, to comply with any system, control or procedure established in accordance with Part A or Part B.

Part 8.4 Oversight by boards and senior management

- 8.4.1 A reporting entity's Part A program must be approved by its governing Board and Senior Management. Part A must also be subject to the ongoing oversight of the reporting entity's Board and Senior Management. Where the reporting entity does not have a board, Part A must be approved and overseen by its chief executive officer or equivalent.

Part 8.5 AML/CTF Compliance Officer

- 8.5.1 Part A must provide for the reporting entity to designate a person as the 'AML/CTF Compliance Officer' at the management level. The AML/CTF Compliance Officer may have other duties.

Part 8.6 Independent review

- 8.6.1 Part A must be subject to regular independent review.
- 8.6.2 The frequency of the review should take into account the nature, size and complexity of a reporting entity's business, and the type and level of ML/TF risk it might face.

8.6.3 While the review may be carried out by either an internal or external party, the person appointed to conduct the review must not have been involved in undertaking any of the functions or measures being reviewed, including:

- (1) the design, implementation, or maintenance of Part A of a reporting entity's AML/CTF program; or
- (2) the development of a reporting entity's risk assessment or related internal controls.

8.6.4 The reporting entity must be able to demonstrate the independence of the reviewer.

8.6.5 The purpose of the review should be to:

- (1) assess the effectiveness of the Part A program having regard to the ML/TF risk of the reporting entity;
- (2) assess whether the Part A program complies with these Rules;
- (3) assess whether the Part A program has been effectively implemented; and
- (4) assess whether the reporting entity has complied with its Part A program.

8.6.6 The results of the review, including any report prepared, must be provided to senior management and, where applicable, the governing board of the reporting entity.

Part 8.7 Incorporation of feedback and guidance on ML/TF risks from AUSTRAC

8.7.1 In developing and updating Part A of an AML/CTF program, a reporting entity must take into account:

- (1) any applicable guidance material disseminated or published by AUSTRAC; and
- (2) any feedback provided by AUSTRAC in respect of the reporting entity or the industry it operates in,

that is relevant to the identification, mitigation, and management of ML/TF risk arising from the provision of a Designated Service by that entity.

Part 8.8 Permanent establishments in a foreign country

8.8.1 The Rules in part 8.8 are made pursuant to section 229 of the AML/CTF Act for the purposes of paragraph 84(2)(b) of that Act. The Rules in part 8.8 apply to a reporting entity in respect of any permanent establishment in a foreign country at or through which it provides Designated Services.

8.8.2 Subject to 8.8.3 below, Part A of a reporting entity's AML/CTF program must include systems and controls that meet the obligations under the AML/CTF Act that

apply to the provision by the reporting entity of Designated Services at or through a permanent establishment of the reporting entity in a foreign country.

- 8.8.3 Where a reporting entity's permanent establishment in a foreign jurisdiction is regulated by anti-money laundering and counter-terrorism financing laws comparable to Australia, only minimal additional systems and controls need to be considered.
- 8.8.4 The requirements in parts 8.4 to 8.7 of these Rules apply in relation to a permanent establishment in a foreign country at or through which a reporting entity provides Designated Services. The requirements in parts 8.1 to 8.3 of 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.

Part 8.9 Reporting obligations

- 8.9.1 Part A of a reporting entity's AML/CTF program must include:
- (1) the obligations that apply to the reporting entity under sections 41, 43, 45 and 47 of the AML/CTF Act (reporting obligations); and
 - (2) appropriate systems and controls of the reporting entity designed to ensure compliance with the reporting obligations of the reporting entity; and
 - (3) the obligations that apply to the reporting entity under section 51F of the AML/CTF Act and Chapter 64 of the AML/CTF Rules; and
 - (4) where the reporting entity is a remittance dealer, the obligations that apply to the remittance dealer under section 75M of the AML/CTF Act (as applicable) to advise:
 - (a) the AUSTRAC CEO of material changes in circumstances and other specified circumstances under subsections 75M(1) and 75M(3) of the AML/CTF Act; or
 - (b) the registered remittance network provider of material changes in circumstances and other specified circumstances under subsection 75M(2) of the AML/CTF Act.

Note: Remittance dealers should also refer to Chapter 60 of the AML/CTF Rules which specifies the material changes to registration details which must be reported to the AUSTRAC CEO.

Chapter 15, Parts 15.1-15.11 - Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)

CHAPTER 15 Ongoing customer due diligence

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 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.

15.2 A reporting entity must include in Part A of its AML/CTF program appropriate risk-based systems and controls to enable a reporting entity to determine in what circumstances further KYC information or beneficial owner information should be collected or verified in respect of customers or beneficial owners of customers to enable the review and update of KYC information and beneficial owner information for ongoing customer due diligence purposes.

Note: 'Beneficial owner information' is the information referred to in Part 4.12 of Chapter 4 of these Rules.

15.3 A reporting entity must undertake reasonable measures to keep, update and review the documents, data or information collected under the applicable customer identification procedure (particularly in relation to high risk customers) and the beneficial owner identification requirements specified in Chapter 4 of these Rules.

Transaction monitoring program

15.4 A reporting entity must include a transaction monitoring program in Part A of its AML/CTF program.

15.5 The transaction monitoring program must include appropriate risk-based systems and controls to monitor the transactions of customers.

15.6 The transaction monitoring program must have the purpose of identifying, having regard to ML/TF risk, any transaction that appears to be suspicious within the terms of section 41 of the AML/CTF Act.

- 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 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. These exemptions are set out in paragraph 4.4.18 of Chapter 4 of these Rules.

- 15.8 A reporting entity must include an enhanced customer due diligence program in Part A of its AML/CTF program.

- 15.9 Subject to paragraph 4.4.18, the reporting entity must apply the enhanced customer due diligence program when:

- (1) it determines under its risk-based systems and controls that the ML/TF risk is high; or

Note: Reporting entities should consider whether any beneficial owner of a customer, including domestic or international organisation politically exposed persons, should be considered high risk.

- (2) a Designated Service is being provided to a customer who is or who has a beneficial owner who is, a foreign politically exposed person; or
- (3) a suspicion has arisen for the purposes of section 41 of the AML/CTF Act; or
- (4) the reporting entity is entering into or proposing to enter into a transaction and a party to the transaction is physically present in, or is a corporation incorporated in, a prescribed foreign country.

- 15.10 The enhanced customer due diligence program must include appropriate risk-based systems and controls so that, in cases where one or more of the circumstances in paragraph 15.9 arises, a reporting entity must undertake measures appropriate to those circumstances, including a range of the measures in subparagraphs 15.10(1) to (7):

- (1) seek information from the customer or from third party sources in order to undertake one or more of the following as specified in subparagraphs 15.10(1)(a) – (d):
 - (a) clarify or update KYC information already collected from the customer;
 - (b) subject to paragraph 4.4.18, clarify or update beneficial owner information already collected from the customer;

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- (c) subject to paragraph 4.4.18, obtain any further KYC information or beneficial owner information, including, where appropriate, taking reasonable measures to identify:
- (i) the source of the customer's and each beneficial owner's wealth; and
 - (ii) the source of the customer's and each beneficial owner's funds;
- (d) clarify the nature of the customer's ongoing business with the reporting entity;
- (2) undertake more detailed analysis of the customer's KYC information and, subject to paragraph 4.4.18, beneficial owner information, including, where appropriate, taking reasonable measures to identify:
- (a) the source of the customer's and each beneficial owner's wealth; and
 - (b) the source of the customer's and each beneficial owner's funds;
- (3) verify or re-verify KYC information in accordance with the customer identification program;
- (4) subject to paragraph 4.4.18, verify or re-verify beneficial owner information in accordance with the beneficial owner identification requirements specified in Chapter 4 of these Rules;
- (5) undertake more detailed analysis and monitoring of the customer's transactions – both past and future, including, but not limited to:
- (a) the purpose, reasons for, or nature of specific transactions; or
 - (b) the expected nature and level of transaction behaviour, including future transactions;
- (6) seek senior management approval for:
- (a) continuing a business relationship with a customer; and
 - (b) whether a Designated Service should continue to be provided to the customer;
- (7) consider whether a transaction or particular transactions should be processed.

15.11 If the circumstances in subparagraph 15.9(2) arise, in addition to any other appropriate measures in paragraph 15.10, a reporting entity must undertake the measures in subparagraphs 15.10(2) and 15.10(6).

Chapter 18 – Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)

CHAPTER 18 Reportable details for suspicious matters

(Rules commencing on 12 December 2008)

18.1 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 paragraph 41(3)(b) of that Act.

18.2 A suspicious matter report must contain the following information:

- (1) a statement of whether the person (first person) is a customer of the reporting entity;
- (2) a statement of whether the first person has requested the reporting entity to provide a Designated Service to the first person and that service is of a kind ordinarily provided by the reporting entity;
- (3) a statement of whether the first person enquired of the reporting entity whether it would be willing or prepared to provide the Designated Service to the first person and that service is of a kind ordinarily provided by the reporting entity;
- (4) a statement of whether the reporting entity has commenced to provide or proposes to provide the Designated Service to the first person;
- (5) a description of any conditions in paragraphs 41(1)(d) to (j) of the AML/CTF Act that relate to the provision or prospective provision of the Designated Service by the reporting entity (suspicious matter);
- (6) a description of any Designated Service to which the suspicious matter relates;
- (7) a description of the reasonable grounds for suspicion relating to the suspicious matter;

Individual

- (8) if the first person is an individual:
 - (a) the full name of the first person, if known;
 - (b) the telephone number of the first person, if known;
 - (c) the full address of the first person (not being a post box address), if known;
 - (d) the postal address of the first person, if different from subparagraph 18.2(8)(c), if known;

- (e) the date of birth of the first person, if known;
- (f) the country of citizenship of the first person, if known;
- (g) the occupation, business or principal activity and ABN of the first person, if known;
- (h) any other name used by the first person, if known;
- (i) the email address of the first person, if known;
- (j) a description of the reliable and independent documentation and/or electronic data source(s) relied upon to verify the identity of the first person, if applicable;

Individual – where identity cannot be established

- (9) if the first person is an individual whose identity cannot be established; for example, where the provision or prospective provision of the Designated Service to which the suspicious matter relates occurred in a face-to-face circumstance:
 - (a) a description of the first person;
 - (b) a statement of whether any relevant documentation exists including a video or photograph, if known and held by the reporting entity;
 - (c) a description of any such relevant documentation relating to the first person, if known;
 - (d) the address of the first person (not being a post box address), if known;
 - (e) the email address of the first person, if known;

Non-individual

- (10) if the first person is not an individual:
 - (a) the name of the first person and any business name under which the first person is operating, if known;
 - (b) a description of the legal form of the first person and any business structure it is a part of, for the purposes of its main business activities, if known (for example, partnership, trust or company);
 - (c) the business or principal activity of the first person, if known;
 - (d) the full address of the first person (not being a post box address), at which the person carries on business, or principal place of business, if known;
 - (e) the postal address of the first person, if different from subparagraph 18.2(10)(d), if known;

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- (f) the telephone number of the first person, if known;
- (g) where the first person has an ACN or ARBN – that number, if known;
- (h) where the first person has an ABN – that number, if known;
- (i) a description of any documentation relating to the first person to which the suspicious matter relates, if known;
- (j) the name(s) of the beneficial owner(s) of the first person, if known;
- (k) the name(s) of the office holder(s) of the first person, if known;
- (l) the country at which the first person was incorporated, formed or registered, if known;
- (m) the email address of the first person, if known;
- (n) a description of the reliable and independent documentation and/or electronic data source(s) relied upon to verify the identity of the first person, if applicable;

Agent

- (11) a statement of whether a person dealing with the reporting entity in relation to the provision or proposed provision of the Designated Service to which a suspicious matter relates, is an agent of the first person (agent);
- (12) Where subparagraph 18.2(11) applies:
 - (a) a statement of whether the agent is a customer of the reporting entity;
 - (b) a description of the relationship between the agent and the first person, if known;
 - (c) a description of any evidence of the first person's authorisation of the agent, if known;

Agent – Individual

- (13) If the agent is an individual:
 - (a) the full name of the agent, if known;
 - (b) the date of birth of the agent, if known;
 - (c) the full address of the agent (not being a post box address), if known;
 - (d) the postal address of the agent, if different from subparagraph 18.2(13)(c), if known;
 - (e) the telephone number of the agent, if known;

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- (f) the email address of the agent, if known;
- (g) the country of citizenship of the agent, if known;
- (h) the occupation, business or principal activity and ABN of the agent, if known;
- (i) any other name(s) used by the agent, if known;
- (j) a description of any reliable and independent documentation and/or electronic data source(s) relied upon to verify the identity of the agent, if applicable;

Agent – where identity cannot be established – individual

- (14) if the agent's identity cannot be established; for example, where the provision or prospective provision of the Designated Service to which the suspicious matter relates occurred in a face-to-face circumstance:
 - (a) a description of the agent, if applicable;
 - (b) a statement of whether any relevant documentation exists including a video or photograph, if known and held by the reporting entity;
 - (c) a description of any such relevant documentation relating to the agent, if known;
 - (d) the address of the agent (not being a post box address), if known;
 - (e) the email address of the agent, if known;

Agent – non-individual

- (15) if the agent is not an individual:
 - (a) the name of the agent and any business name(s) under which the agent is operating, if applicable;
 - (b) a description of the legal form of the agent and any business structure it is a part of, for the purposes of its main business activities, if known (for example, partnership, trust or company);
 - (c) the business or principal activity of the agent, if applicable;
 - (d) the full address of the agent (not being a post box address), at which the person carries on business, or principal place of business, if known;
 - (e) the postal address of the agent, if different from subparagraph 18.2(15)(d), if known;
 - (f) where the agent has an ACN or ARBN – that number, if known;

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- (g) where the agent has an ABN – that number, if known;
- (h) a description of any documentation relating to the agent to which the suspicious matter relates, if known;
- (i) the telephone number of the agent, if known;
- (j) the email address of the agent, if known;
- (k) the country in which the agent was incorporated, formed or registered, if known;
- (l) the name(s) of beneficial owner(s) of the agent, if known;
- (m) the name(s) of office holder(s) of the agent, if known;
- (n) a description of any reliable and independent documentation and/or electronic data source(s) relied upon to verify the identity of the agent, if applicable;

Other relevant information

- (16) the date(s) on which any of the following occurs in respect of the Designated Service to which the suspicious matter relates:
 - (a) the reporting entity commences to provide or proposes to provide the Designated Service to the first person; or
 - (b) the first person requests the reporting entity to provide the Designated Service, of a kind ordinarily provided by the reporting entity, to the first person; or
 - (c) the first person enquires of the reporting entity whether it would be willing or prepared to provide the Designated Service, of a kind ordinarily provided by the reporting entity, to the first person; or
 - (d) the agent deals with the reporting entity in relation to the provision or prospective provision of the Designated Service;
- (17) the reporting entity's identifier number (where applicable) or reference number relating to the provision or prospective provision of the Designated Service to which the suspicious matter relates;
- (18) where an account provided by a reporting entity or another person relates to the Designated Service to which the suspicious matter relates:
 - (a) the name appearing on the account;
 - (b) the name of the provider of the account, if known;
 - (c) a description of the account, if known;

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- (d) the account number, if known;
 - (e) the name(s) of signatory(ies) to the account, if known;
 - (f) the BSB number of the account, if applicable and known;
 - (g) the date on which the account was opened, if known;
 - (h) a description of any documentation relating to the account, if known;
 - (i) the balance(s) of the account on the date(s) to which a suspicious matter relates, if known;
- (19) the total amount related to the Designated Service to which the suspicious matter relates, in Australian dollars and/or foreign currency;
- (20) where the total amount consists of components, for such of the components which relate to the grounds for the suspicion, if applicable and known:
- (a) a description of each of the components;
 - (b) the amount of each of the components in Australian dollars;
 - (c) the type of foreign currency and amount of the foreign currency, where applicable, in relation to each of the components;
 - (d) the name of the drawer or issuer of each of the components, if applicable;
 - (e) the name and branch of the institution or foreign financial institution at which each of the components is, or was, drawn or issued, if applicable;
 - (f) the country in which the branch referred to in subparagraph 18.2(20)(e) is located;
 - (g) the name of the payee of each of the components, where applicable;
 - (h) if the payee of each of the components is not the beneficiary, the full name of the beneficiary, if known;
 - (i) the date on which each of the components occurs;
- (21) if applicable, where money or property is transferred or is to be transferred under the provision or prospective provision of the Designated Service to which the suspicious matter relates:
- (a) the full name of the sender;
 - (b) the full address of the sender (not being a post box address);
 - (c) the postal address of the sender, if different from subparagraph 18.2(21)(b), if known;

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- (d) the telephone number of the sender, if known;
 - (e) the email address of the sender, if known;
 - (f) a statement of whether the money was transferred or is to be transferred;
 - (g) a statement of whether the property was transferred or is to be transferred;
 - (h) a description of the property which is or is to be transferred;
 - (i) the account number of the sender from which money or property is transferred or is to be transferred, or where an account does not exist, a unique reference number relating to the transfer of money or property;
 - (j) the name of the institution or entity that issued the account referred to in subparagraph 18.2(21)(i);
 - (k) the full name of any payee, if known;
 - (l) if the payee is not the beneficiary, the full name of the beneficiary, if known;
 - (m) the full address of the payee and/or beneficiary (not being a post box address), if known;
 - (n) the postal address of the payee and/or beneficiary, if different from subparagraph 18.2(21)(m), if known;
 - (o) the account number of the beneficiary and/or payee;
 - (p) the name of the institution or entity that issued the account referred to in subparagraph 18.2(21)(o);
 - (q) the country in which the institution or entity referred to in subparagraph 18.2(21)(p) is located;
 - (r) the date on which the money or property is transferred or is to be transferred;
- (21A) where the Designated Service involves digital currency:
- (a) the denomination or code of the digital currency and the number of digital currency units;
 - (b) the value of the digital currency involved in the transaction, expressed in Australian dollars, if known;
 - (c) a description of the digital currency including details of the backing asset or thing, if known;
 - (d) the Internet Protocol (IP) address information of the first person, if known;

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- (e) the social media identifiers of the first person, if known;
 - (f) the unique identifiers relating to the digital currency wallet(s) of the first person, if known; and
 - (g) the unique device identifiers of the first person relating to or arising from the transaction, if known;
- (22) if another institution, entity or intermediary was involved in the reporting entity's provision or prospective provision of the Designated Service to which the suspicious matter relates:
- (a) the full name of the other institution, entity or intermediary;
 - (b) the branch name or country of the other institution, entity or intermediary;
 - (c) the country of the branch of the other institution, entity or intermediary, if the country is not Australia;
- (23) the name of the reporting entity;
- (24) the full address and branch of the reporting entity (not being a post box address), at which any of the following applies:
- (a) the reporting entity commences to provide or proposes to provide the Designated Service (to which the suspicious matter relates) to the first person; or
 - (b) the first person requests the reporting entity to provide the Designated Service (to which the suspicious matter relates), of a kind ordinarily provided by the reporting entity, to the first person; or
 - (c) the first person enquires of the reporting entity whether it would be willing or prepared to provide the Designated Service (to which the suspicious matter relates), of a kind ordinarily provided by the reporting entity, to the first person; or
 - (d) the agent deals with the reporting entity in relation to the provision or the prospective provision of the Designated Service (to which the suspicious matter relates);
- (27) if a suspicious matter has been reported or is to be reported to an Australian government body that has responsibility for law enforcement referred to in paragraph 123(9)(b) of the AML/CTF Act:
- (a) a description of the Australian government body;
 - (b) the address of the Australian government body;
 - (c) a description of the information which was provided to the Australian government body;

- (d) the date on which the suspicious matter is to be, or was, reported;
- (28) where a suspicious matter reporting obligation has previously arisen for the reporting entity in relation to the first person and was previously reported to AUSTRAC under section 41 of the AML/CTF Act:
 - (a) the date on which the suspicious matter was reported, if known;
 - (b) any identifier number or reference number given by the reporting entity to the previous report, if known.
- 18.3 A report under subsection 41(2) of the AML/CTF Act must contain the following details about the person completing the report:
 - (1) full name;
 - (2) job title or position;
 - (3) telephone number; and
 - (4) email address.
- 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.

Chapters 62, 63, 64, 65 – Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)

CHAPTER 62 Reporting Entities Roll

- 62.1 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 subsection 51C(4) of that Act and in reliance on section 4 of the *Acts Interpretation Act 1901*. These Rules come into effect on the date that section 51C of the AML/CTF Act comes into effect.
- 62.2 If the AUSTRAC CEO considers on reasonable grounds that an entry on the Reporting Entities Roll (the Roll) is incorrect or incomplete, the AUSTRAC CEO may correct, or make complete, the entry.
- 62.3 (1) If the AUSTRAC CEO corrects or makes complete a person’s

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name and enrolment details on the Roll, the AUSTRAC CEO must, (if possible), give a written notice to the person; and

- (2) The notice must set out:
 - (a) the changes to the entry that the AUSTRAC CEO has made; and
 - (b) the date on which the changes were made.

62.4 If the AUSTRAC CEO considers on reasonable grounds that a person no longer provides a Designated Service, the AUSTRAC CEO may remove the person's name and enrolment details from the Roll.

62.5 For the purposes of paragraph 62.4, the matters that may be considered by the AUSTRAC CEO when forming an opinion include:

- (1) a change in any of the person's enrolment details set out in Part A of Schedule 1 of Chapter 63;
- (2) if the person is a company – the deregistration of the company by the Australian Securities and Investments Commission;
- (3) if the person is a trust – information that the trust has been dissolved;
- (4) if the person is a partnership – information that the partnership has been dissolved;
- (5) if the person is an individual – information that the individual is deceased;
- (6) if the person is an unincorporated association – information that the association has ceased to exist;
- (7) if the person is an incorporated association – information that the association has ceased to exist;
- (8) if the person is a registered co-operative – information that the co-operative has ceased to exist;
- (9) if the person is a government body – information that the government body has ceased to exist;
- (10) information that two or more persons whose names and enrolment details are currently on the Roll have merged or amalgamated, and the merged or amalgamated entity has commenced, or has continued, to provide a Designated Service;
- (11) information that the person no longer provides a Designated Service; or
- (12) any other information that the AUSTRAC CEO considers is relevant to whether the person continues to provide a Designated Service or has changed its legal structure to the extent that names and enrolment details should be removed.

- 62.6 (1) If the AUSTRAC CEO has formed the opinion that the person no longer provides a Designated Service and has removed the person's name and enrolment details, the AUSTRAC CEO must (if possible) give a written notice to the person, or in the case of a deceased individual, the administrator of that individual's estate.
- (2) The notice must set out:
- (a) the reason for the removal by the AUSTRAC CEO; and
 - (b) the date on which the person's name and enrolment details were removed from the Roll.

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.

CHAPTER 63 Information to be provided or in relation to an application for enrolment as a reporting entity

- 63.1 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 subsection 51C(4) and paragraph 51E(2)(b) of that Act.
- 63.2 The enrolment details, in relation to a person, are the details required to be provided as set out in Part A of the Schedule to this Chapter.
- 63.3 A person making an application for enrolment as a reporting entity must:
- (1) provide in their application the information set out in Part A of the Schedule to this Chapter;
 - (2) obtain and retain the information set out in Part B of the Schedule to this Chapter; and
 - (3) include in their application a declaration made by the authorised individual that the information in the Schedule to this Chapter is true, accurate and complete.
- 63.4 An application for enrolment as a reporting entity may be made by an agent of the person on behalf of the person, only if:
- (1) there is a current written agreement in place between the agent of the person and the person; or the person has provided to the agent of the person a written authority;

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- (2) that written agreement or written authority authorises the agent to make an application for enrolment on behalf of the person;
- (3) the application of the agent on behalf of the person contains the information set out in Part A of the Schedule to this Chapter;
- (4) the agent has obtained and retained the information set out in Part B of the Schedule to this Chapter; and
- (5) the application includes a declaration by the agent that the information in the Schedule to this Chapter is true, accurate and complete.

63.5 In this Chapter:

- (1) ‘ADI’ (short for authorised deposit-taking institution) has the same meaning as in the AML/CTF Act;
- (2) ‘annual financial statements’ means:
 - (a) if the person has an obligation under Part 2M.3 of the *Corporations Act 2001*:
 - (i) the financial report (or foreign equivalent) for the most recent financial year before the census day;
 - (b) if the person does not have an obligation under Part 2M.3 of the *Corporations Act 2001*:
 - (i) those consolidated documents which are used to calculate the EBITDA for the most recent financial year before the census day;
- (3) ‘Australian Government Entity’ means:
 - (a) the Commonwealth, a State or a Territory; or
 - (b) an agency or authority of:
 - (i) the Commonwealth; or
 - (ii) a State; or
 - (iii) a Territory; or
 - (c) a local governing body established by or under a law of the Commonwealth, a State or Territory, other than a body whose sole or principal function is to provide a particular service, such as the supply of electricity or water;
- (4) ‘authorised individual’ means a natural person who is:
 - (a) a beneficial owner;

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- (b) an officer as defined in section 9 of the *Corporations Act 2001*;
 - (c) an agent of the person;
 - (d) a nominee pursuant to subsection 8(2) of the *Australian Transaction Reports and Analysis Centre Industry Contribution (Collection) Act 2011* who has been authorised in writing by the person to act on their behalf as a nominee; or
 - (e) an employee of the person who has been authorised in writing by the person to act on their behalf;
- (5) ‘beneficial owner’ has the same meaning as in Chapter 1 of these AML/CTF Rules;
- (6) ‘company’ has the same meaning as in the *Corporations Act 2001*;
- (7) ‘consolidated documents’ means those documents which contain financial information relating to the calculation of earnings;
- (8) ‘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 – 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 leviable 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: The above definition recognises that leviable entities may have annual accounting periods that end on a date other than 30 June in any year.

- (9) ‘financial report’ has the same meaning as in section 9 of the *Corporations Act 2001*;
- (10) ‘foreign company’ has the same meaning as in the *Corporations Act 2001*;
- (11) ‘group of leviable entities’ means all leviable entities that are related bodies corporate;
- (12) ‘instalment of levy’ means an amount of levy imposed by a determination under subsection 9(1) of the *Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011*;

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- (13) 'leviable entity', in relation to the financial year, has the same meaning as in the *Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011*;
 - (14) 'person' has the same meaning as in the AML/CTF Act;
 - (15) 'previous financial year' means the financial year beginning on 1 July of the financial year immediately preceding the census day;
 - (16) 'registered financial corporation' has the same meaning as 'registered entity' in the *Financial Sector (Collection of Data) Act 2001*;
 - (17) 'related bodies corporate' has the same meaning as in the *Corporations Act 2001*;
 - (18) 'significant items' means a revenue or an expense from ordinary activities of such size, nature or incidence that its disclosure is relevant to the Australian Accounting Standard AASB 1018 (5.4);
 - (19) 'subsidiary' has the same meaning as in the *Corporations Act 2001*;
 - (20) 'ultimate holding company' has the same meaning as in the *Corporations Act 2001*.
- 63.6 In these Rules, the terms 'domestic company', 'registered co-operative', 'registered foreign company', 'relevant foreign registration body' and 'unregistered foreign company' have the same respective meanings as in Chapter 1 of the AML/CTF Rules.

Schedule – Information to be provided or relating to a person applying for enrolment

Part A Enrolment details - the information to be provided by a person applying for enrolment pursuant to section 51E of the AML/CTF Act

1. The name of the person;
2. The business name(s) under which the person is carrying on a business, or proposes to carry on a business, of providing a Designated Service;
3. A description of whether the person is operating as an individual, company, partnership, trust or through any other legal structure;
4. A description of whether the person:
 - (a) provides a Designated Service at or through a permanent establishment in Australia;
 - (b) is a resident of Australia and the Designated Service is provided at or through a permanent establishment of the person in a foreign country; or

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- (c) is a subsidiary of a company that is a resident of Australia and the Designated Service is provided at or through a permanent establishment of the person in a foreign country;
5. The Designated Service or services which the person provides or proposes to provide;
 6. The date on which the person commenced to provide or proposes to provide, Designated Services;
 7. A description of the business carried on by the person;
 8. The address of the registered office of the person (if applicable);
 9. The full street address of the person's principal place of business at which the person provides or proposes to provide a Designated Service, not being a branch of that person;
 10. The postal address of the person (if applicable);
 11. In regard to the registration of a business carrying on a business, or proposing to carry on a business, of providing a Designated Service, the following, if applicable:
 - (a) the ACN;
 - (b) the ARBN;
 - (c) the ABN;
 - (d) the Australian financial services licence number;
 - (e) the Australian credit licence number;
 - (f) the foreign equivalent of the ACN, ABN, ARBN, AFSL or Australian credit licence number, together with the country in which the number was issued;
 12. The person's telephone number at its principal place of business;
 13. The person's facsimile number at its principal place of business (if applicable);
 14. The person's email address at its principal place of business (if applicable);
 15. The person's website address (if applicable);
 16. The full name and business address (not being a post box address), and, where applicable, any business registration number(s) of:
 - (a) if the person is an individual – that individual;
 - (b) if the person comprises a partnership – the full name and address (not being a post box address) of each partner of the partnership; or
 - (c) if the person is a trust – the name of each trustee;

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17. If the person provides the item 31, 32 and 32A Designated Services in table 1 of subsection 6(2) of the AML/CTF Act, whether the person provides those Designated Services as a:
- (a) remittance network provider;
 - (b) an independent remittance dealer; or
 - (c) a remittance affiliate of a registered remittance network provider;
18. Whether the person has any obligations under the *Financial Transaction Reports Act 1988*, and if so, the details of those obligations;
19. Whether the person is a related body corporate to a reporting entity;
20. If applicable, in respect of the ultimate holding company of the group of related bodies corporate of which the person is a member:
- (a) the name of the ultimate holding company;
 - (b) the ACN;
 - (c) the ARBN;
 - (d) the ABN;
 - (e) the Australian financial services licence number;
 - (f) the Australian credit licence number;
 - (g) the foreign equivalent of the ACN, ABN, ARBN, AFSL or Australian credit licence number, together with the country in which the number was issued;
 - (h) the address (not being a post box address);

Earnings information and the AUSTRAC Industry Contribution

21. The earnings of the person for a year ending in the financial year immediately preceding the census day, if the circumstances described below apply:

Note: If an earnings figure is required to be provided it may need to be updated each year as required by the AML/CTF Rules made under section 51F of the AML/CTF Act which deal with the requirement to update 'enrolment details'.

When earnings details have to be provided

- (a) that entity is not part of a group of leviable entities and has earnings equal to or greater than \$100,000,000; or
- (b) that entity is part of a group of leviable entities where the total earnings of the group of leviable entities is equal to or greater than \$100,000,000; or

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- (c) that entity is a foreign company or a subsidiary of a foreign company and is not part of a group of leviable entities and the earnings of the entity derived from operations in Australia is equal to or greater than \$100,000,000; or
- (d) that entity is part of a group of leviable entities where one or more entities is a foreign company or a subsidiary of a foreign company ('foreign leviable entity') and the total earnings of all of the foreign leviable entities from operations in Australia is:
 - (i) equal to or greater than \$100,000,000;or
 - (ii) (A) less than \$100,000,000; and
 - (B) the total earnings of the foreign leviable entity or entities from operation in Australia and the total earnings of all other leviable entities in the group is equal to or greater than \$100,000,000;

comprising:

- (e) where the person is an ADI or a Registered Financial Corporation, and is not a foreign company:
 - (i) the total profit before tax, depreciation and amortisation (PBTDA), not adjusted for significant items; or
- (f) where the person is a member of a group of leviable entities and any member of that group is an ADI or a Registered Financial Corporation, and the person is not a foreign company:
 - (i) the PBTDA, not adjusted for significant items; or
- (g) where the person is an ADI or a Registered Financial Corporation, and the person is a foreign company:
 - (i) the PBTDA, not adjusted for significant items derived from its operations in Australia; or
- (h) where the person is a member of a group of leviable entities and any member of that group is an ADI or a Registered Financial Corporation, and the person is a foreign company:
 - (i) the PBTDA, not adjusted for significant items derived from its operations in Australia; or
- (i) where the person is not an ADI or a Registered Financial Corporation, and is not a foreign company:
 - (i) the total earnings before tax, interest, depreciation and amortisation (EBITDA), not adjusted for significant items; or

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- (j) where the person is a member of a group of leviabie entities and none of the members is an ADI or a Registered Financial Corporation, and the person is not a foreign company:
 - (i) the EBITDA, not adjusted for significant items; or
 - (k) where the person is not an ADI or a Registered Financial Corporation, and is a foreign company:
 - (i) the EBITDA, not adjusted for significant items derived from its operations in Australia; or
 - (l) where the person is a member of a group of leviabie entities and none of the members is an ADI or a Registered Financial Corporation, and the person is a foreign company:
 - (i) the EBITDA, not adjusted for significant items derived from its operations in Australia;
22. The billing address of the person;
23. The business contact details of the AML/CTF Compliance Officer of the person, comprising:
- (a) full name;
 - (b) position or title;
 - (c) date of birth (optional);
 - (d) telephone number;
 - (e) facsimile number (if applicable);
 - (f) email address; and
 - (g) postal address;
24. The business contact details of the individual completing the application for enrolment, comprising:
- (a) full name;
 - (b) position or title;
 - (c) date of birth (optional);
 - (d) telephone number;
 - (e) facsimile number (if applicable);
 - (f) email address; and

- (g) postal address;
25. The business contact details of the individual, if different from the AML/CTF Compliance Officer, relevant to matters relating to the levy, comprising:
- (a) full name;
 - (b) position or title;
 - (c) date of birth (optional);
 - (d) telephone number;
 - (e) facsimile number (if applicable);
 - (f) email address; and
 - (g) postal address;
26. Whether the person is exempt from Part 7 of the AML/CTF Act in full;
27. Whether the person has fewer than 5 employees.
28. Where the person is a remittance affiliate; and
- (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;
- that person is not required to provide the information in regard to an application for enrolment specified at
- (c) paragraphs 19, 20, 21, 22, 25, 26 and 27.
29. Where the person is exempt from Part 7 of the AML/CTF Act in full, that person is not required to provide the information in regard to an application for enrolment specified at,
- (a) paragraphs 19, 20, 21, 22, 25, and 27.

Part B Information to be obtained and retained by a person applying for enrolment pursuant to subsection 51C(4) of the AML/CTF Act

1. The annual financial statements of the person relating to the most recent financial year before the census day, unless the person is:
- (a) a remittance affiliate that provided a Designated Service or services only in the capacity of a remittance affiliate and did not provide a Designated Service in any other capacity;

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or

- (b) a person exempt from Part 7 of the AML/CTF Act in full.

If the person is a company

- 2. domestic company:
 - (a) if the company is registered as a proprietary company, the name of each Director of the company;
- 3. registered foreign company:
 - (a) the country in which the company was formed, incorporated or registered;
 - (b) whether the company is registered by the relevant foreign registration body; and
 - (c) the name of each Director of the company;
- 4. unregistered foreign company:
 - (a) the country in which the company was formed, incorporated or registered;
 - (b) whether the company is registered by the relevant foreign registration body; and if so:
 - (i) the full address of the company in its country of formation, incorporation or registration as registered; and
 - (ii) the name of each Director of the company;
 - (c) if the company is not registered by the relevant foreign registration body, the full address of the principal place of business of the company in its country of formation or incorporation;

If the person is an association (incorporated)

- 5. (a) the full names of the office holders, including the chairman, secretary and treasurer or equivalent officer in each case of the association; and
- (b) the full names of any members of the governing committee (howsoever described);

If the person is an association (unincorporated)

- 6. (a) the full names of the office holders, including the chairman, secretary and treasurer or equivalent officer in each case of the association; and

- (b) the full names of any members of the governing committee (howsoever described);

If the person is a registered co-operative

7. the full names of the office holders, including the chairman, secretary or treasurer or equivalent officer in each case of the co-operative;

If the person is a government body

8. whether the government body is an Australian government entity;
9. whether the government body is established under legislation of a foreign country and the name of that country;

For applications for enrolment made by an agent of the person

10. the original or certified copy of the agreement or authority between the agent and the person for the duration of that agreement or authority.

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 363 999.

CHAPTER 64 Changes in enrolment details in respect to a reporting entity

64.1 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 subsection 51F(1) of that Act and in reliance on section 4 of the *Acts Interpretation Act 1901*. These Rules come into effect on the date that section 51F of the AML/CTF Act comes into effect.

64.2 For the purposes of subsection 51F(1) the following matters are specified:

- (1) any change in any of the person's enrolment details set out in Part A of the Schedule to Chapter 63, including:
- (a) if applicable, an updated annual earnings figure as soon as that becomes available;
 - (b) where two or more persons whose names and enrolment details are currently on the Roll have merged or amalgamated, and the merged or amalgamated entity has commenced, or has continued, to provide a Designated Service.

- 64.3 Notification of a change in the person's enrolment details may be made by an agent of the person on behalf of the person, only if:
- (1) there is a current written agreement in place between the agent of the person and the person, or the person has provided to the agent of the person a written authority;
 - (2) that agreement or written authority authorises the agent to notify, on behalf of the person, a change in the enrolment details of the person on the Reporting Entities Roll; and
 - (3) the notification of a change in a person's enrolment details includes a declaration by the agent that the information is true, accurate and complete.
- 64.4 A request for change of a person's enrolment details may be made by a person (the requestor) who is not the person or an agent of the person, if:
- (1) the request provides evidence of the requestor's authority to make that request, to the satisfaction of the AUSTRAC CEO, and
 - (2) the person is a corporate body which has ceased to exist; or
 - (3) the person is an individual who no longer has capacity to manage their affairs.

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 563 992.

CHAPTER 65 Removal of entries from the Reporting Entities Roll

- 65.1 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 paragraph 51G(2)(b) of that Act.
- 65.2 A request made by a person to the AUSTRAC CEO to remove their name and enrolment details from the Reporting Entities Roll must:
- (1) contain the information set out in the Schedule to this Chapter; and
 - (2) include a declaration made by the authorised individual that the information in the Schedule of this Chapter is true, accurate and complete.
- 65.3 A request for removal from the Reporting Entities Roll may be made by an agent of the person on behalf of the person, only if:

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- (1) there is a current written agreement in place between the agent of the person and the person, or the person has provided to the agent of the person a written authority;
- (2) that agreement or written authority authorises the agent to request, on behalf of the person, the removal of the person from the Reporting Entities Roll;
- (3) the request for removal by the agent contains the information set out in the Schedule to this Chapter; and
- (4) the request for removal includes a declaration by the agent that the information is true, accurate and complete.

65.4 A request for change of a person's enrolment details may be made by a person (the requestor) who is not the person or an agent of the person, if:

- (1) the request provides evidence of the requestor's authority to make that request, to the satisfaction of the AUSTRAC CEO, and
- (2) the person is an individual who is deceased, or
- (3) the person is a corporate body which has ceased to exist; or
- (4) the person is an individual who no longer has capacity to manage their affairs; or
- (5) a request for change of a person's enrolment details may be made by a person (the requestor) who is not the person or an agent of the person, if:
 - (1) the request provides evidence of the requestor's authority to make that request, to the satisfaction of the AUSTRAC CEO, and
 - (2) the person is an individual who is deceased, or
 - (3) the person is a corporate body which has ceased to exist; or
 - (4) the person is an individual who no longer has capacity to manage their affairs.

65.5 In this Chapter:

- (1) 'authorised individual' means a natural person who is:
 - (a) a beneficial owner;
 - (b) an officer as defined in section 9 of the *Corporations Act 2001*;
 - (c) an agent of the person;
 - (d) a nominee pursuant to subsection 8(2) of the *Australian Transaction Reports and Analysis Centre Industry*

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Contribution (Collection) Act 2011 who has been authorised in writing by the person to act on their behalf as a nominee; or

- (e) an employee of the person who has been authorised in writing by the person to act on their behalf;
- (2) ‘beneficial owner’ has the same meaning as in Chapter 1 of these AML/CTF Rules;
- (3) ‘company’ has the same meaning as in the *Corporations Act 2001*;
- (4) ‘person’ has the same meaning as in the AML/CTF Act.

Schedule – Information to be provided in a request for removal from the Reporting Entities Roll

1. The name of the person;
2. The business name(s) under which the person is carrying on a business, or was carrying on a business, of providing a Designated Service;
3. If applicable, the address of the principal place of business of the person;
4. If applicable, the postal address of the person;
5. If applicable:
 - (a) the ACN;
 - (b) the ARBN;
 - (c) the ABN;
 - (d) the Australian financial services licence number;
 - (e) the Australian credit licence number;
 - (f) any other unique identifying number relevant to the registration of the business, including any that relate to a business or trading name; not included in subparagraphs (a) to (e) above;
 - (g) any number relevant to the person which has been allocated by AUSTRAC in regard to the person’s enrolment on the Reporting Entities Roll;
6. The person’s telephone number at its principal place of business;
7. The person’s facsimile number at its principal place of business (if applicable);
8. The person’s email address at its principal place of business (if applicable);
9. The date of the application requesting removal from the Reporting Entities Roll;

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10. A statement that the person requests the AUSTRAC CEO to remove their name and enrolment details from the Reporting Entities Roll;
11. The date on which the person requests their name and enrolment details to be removed from the Reporting Entities Roll, if different from the date of the application;
12. The person's reason for requesting their removal from the Reporting Entities Roll, for example:
 - (a) the person no longer provides a Designated Service;
 - (b) the person is an individual who is deceased;
 - (c) the person is a corporate body which has ceased to exist;
 - (d) two or more persons whose names and enrolment details are currently on the Reporting Entities Roll have merged or amalgamated, and the merged or amalgamated entity has commenced, or has continued, to provide a Designated Service.

Released under Freedom Of Information Act 1982 on 15/04/2020