



Anti-Money Laundering and Counter-Terrorism Financing (Modification—PayPal Australia Pty Limited) Declaration 2021 (No. 1)

I, Kathryn Miller, a delegate of the AUSTRAC CEO make the following declaration.

Dated 30 April 2021

A handwritten signature in blue ink, appearing to read 'K. Miller', is positioned above the typed name.

Kathryn Miller
National Manager, Legal and Enforcement
AUSTRAC

Contents

1 Name.....	1
2 Commencement	1
3 Cessation.....	1
4 Authority.....	1
5 Definitions	1
6 Application	2
7 Schedules.....	2
Schedule 1—Modification	3
<i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i>	3
Schedule 2—Amendments	6
<i>Declaration 3 of 2008</i>	6
Schedule 3—Repeals	8
<i>Declaration 5 of 2011</i>	8
<i>Declaration 3 of 2008</i>	8

1 Name

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing (Modification—PayPal Australia Pty Limited) Declaration 2021 (No. 1)*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 7 and anything in the instrument not covered elsewhere by this table	1 May 2021	
2. Schedule 1	1 November 2021	
3. Schedule 2	1 May 2021	
4. Schedule 3, item 1	1 May 2021	
5. Schedule 3, item 2	1 November 2021	

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Cessation

This instrument ceases to have effect on 31 October 2024.

4 Authority

This instrument is made under paragraph 248(1)(b) of the Act.

5 Definitions

Note: A number of expressions used in this instrument are defined in section 5 of the Act, including the following:

- (a) AML/CTF Rules;
- (b) designated business group;
- (c) reporting entity.

In this instrument:

Act means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

PayPal means:

- (a) PayPal Australia Pty Ltd ACN 111 195 389 (***PayPal Australia***); or
- (b) a reporting entity that is, or becomes, a member of the PayPal DBG from time to time.

PayPal DBG (short for PayPal Designated Business Group) means the designated business group established by PayPal Australia under Chapter 2 of the AML/CTF Rules.

6 Application

This instrument applies to PayPal.

7 Schedules

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

Schedule 1—Modification

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

1 Paragraph 32(2)(c)

Omit “.”, substitute “; or”.

2 After paragraph 32(2)(c)

Insert:

- (d) subsection (2A) applies to the provision of the designated service.

3 After subsection 32(2)

Insert:

- (2A) A reporting entity that commences to provide a designated service described in item 1, 2, 3, 29 or 30 of table 1 in subsection 6(2) is not required to carry out the applicable customer identification procedure if the following conditions are satisfied:
 - (a) the customer of the designated service is an individual;
 - (b) the designated service is provided in relation to a Consumer Account (*the account*);
 - (c) the designated service is limited to one or more of the following kinds of services:
 - (i) opening the account;
 - (ii) allowing the holder of the account to become a signatory to the account at the time of opening the account;
 - (iii) in relation to a straight through processing transaction—
 - (A) allowing the transaction to be conducted in relation to the account; and
 - (B) any designated service described in item 29 or 30 that is provided to the customer in connection with the transaction;
 - (d) if the designated service is a kind of service mentioned in subparagraph (c)(i) or (ii)—the reporting entity has not previously provided, or commenced to provide, the service to the customer;
 - (e) the reporting entity has not previously carried out the applicable customer identification procedure in respect of the customer;
 - (f) the reporting entity has collected KYC information about the customer in accordance with Part 4.2 of the AML/CTF Rules before commencing to provide the designated service;
 - (g) the reporting entity has determined, in accordance with Part A of its anti-money laundering and counter-terrorism financing program, that the money laundering or financing of terrorism risk it may reasonably face in providing the designated service to the customer is low;
 - (h) the reporting entity has not formed an applicable suspicion mentioned in subsection 41(1) in relation to the customer;

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- (i) the reporting entity has determined on reasonable grounds that providing the designated service prior to completing the applicable customer identification procedure is essential to avoid interrupting the ordinary course of business.

Note: If any of the conditions set out in paragraphs (a)–(i) are not satisfied, the reporting entity must carry out the applicable customer identification procedure before the commencement of the provision of the designated service.

4 Paragraphs 33(a) and (b)

Repeal the paragraphs, substitute:

- (a) the reporting entity commences to provide a designated service described in item 3, 29 or 30 of table 1 in subsection 6(2); and
- (b) the following conditions are satisfied:
 - (i) the customer of the designated service is an individual;
 - (ii) the designated service is provided in relation to a Consumer Account (*the account*) that has a nil balance;
 - (iii) the designated service is limited to:
 - (A) a transaction that consists of the receipt of balance into the account; and
 - (B) any designated service described in item 29 or 30 that is provided to the customer in connection with the transaction;
 - (iv) the reporting entity has not previously allowed a transaction to be conducted on the account other than a straight through processing transaction;
 - (v) the reporting entity has collected KYC information about the customer in accordance with Part 4.2 of the AML/CTF Rules before commencing to provide the designated service;
 - (vi) the reporting entity has determined, in accordance with Part A of its anti-money laundering and counter-terrorism financing program, that the money laundering or financing of terrorism risk it may reasonably face in providing the designated service to the customer is low;
 - (vii) the reporting entity has not formed an applicable suspicion mentioned in subsection 41(1) in relation to the customer;
 - (viii) the reporting entity has determined on reasonable grounds that carrying out the applicable customer identification procedure after the commencement of the provision of the designated service is essential to avoid interrupting the ordinary course of business.

5 Section 33 (note)

Repeal the note, substitute:

Note: If any of the conditions set out in subparagraphs (i)–(viii) are not satisfied, there are taken to be 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 designated service.

6 Paragraph 34(1)(d)

Repeal the paragraph, substitute:

- (d) the reporting entity has not carried out the applicable customer identification procedure in respect of the customer immediately after allowing a transaction that consists of the receipt of balance into the account; and

7 Subsection 34(1)

Omit “whichever of subparagraphs (d)(i) or (ii) is applicable”, substitute “paragraph (d)”.

8 After section 34

Insert:

34A Interpretation

In this Division:

Consumer Account means a PayPal account that is:

- (a) held by an individual; and
- (b) not a Merchant Account.

Merchant Account means a PayPal account that is:

- (a) held by a business; and
- (b) not a Consumer Account.

PayPal means:

- (a) PayPal Australia Pty Ltd ACN 111 195 389 (**PayPal Australia**); or
- (b) a reporting entity that is, or becomes, a member of the PayPal DBG from time to time.

PayPal DBG (short for PayPal Designated Business Group) means the designated business group established by PayPal Australia under Chapter 2 of the AML/CTF Rules.

straight through processing transaction means accepting an electronic funds transfer instruction from the individual holder of a Consumer Account to transfer money in the following circumstances:

- (a) the transfer is recorded as a simultaneous debit and credit entry on the Consumer Account;
- (b) the money to be transferred is immediately drawn from another account provided by a financial institution that is not PayPal.

Note: See also the definition of **financial institution** in section 5.

Schedule 2—Amendments

Declaration 3 of 2008

1 The whole of the instrument

Omit “(3)” (wherever occurring), substitute “(1A)”.

2 Subsection 1(2)

Omit “32(2)”, substitute “32(1)”.

3 Subsection 1(2)

Omit “13 March 2009 to 30 April 2021 (inclusive) (the *relevant period*)”, substitute “between 13 March 2009 and 31 October 2021 (*relevant period*)”.

4 Subsection 1(2)

Omit “an account (including, but not limited to, a Personal, Premier or Business user group account) which”, substitute “a Consumer Account that”.

5 Subsection 1(2)

Omit:

- (d) For customers who are individuals: paragraphs 4.2.6 – 4.2.13;
- (e) For customers who are companies: paragraphs 4.3.5 – 4.3.21 (except paragraph 4.3.10);
- (f) For customers who are trustees: paragraphs 4.4.5 – 4.4.17 (except paragraphs 4.4.9, 4.4.10, 4.4.13 and 4.4.14);
- (g) For customers who are partners of a partnership: paragraphs 4.5.5 – 4.5.9;
- (h) For customers who are associations: paragraphs 4.6.5 – 4.6.9;
- (i) For customers who are registered co-operatives: paragraphs 4.7.5 – 4.7.9;
- (j) For customers who are government bodies: paragraphs 4.8.5 – 4.8.9 (except paragraph 4.8.7);
- (k) Part 4.9;
- (l) Part 4.10; and
- (m) For agents of customers: paragraphs 4.11.3, 4.11.4, 4.11.7 and 4.11.8.

Substitute:

- (d) for customers who are individuals—paragraphs 4.2.6–4.2.14.

6 At the end of subsection 1(2)

Add:

Note: For expressions of time, see subsection 36(1) of the *Acts Interpretation Act 1901*.

7 At the end of section 1

Add:

- (3) Insert immediately after subsection 32(1A):

Interpretation

(1B) In this section:

Consumer Account means a PayPal account that is:

- (a) held by an individual; and
- (b) not a Merchant Account.

Merchant Account means a PayPal account that is:

- (a) held by a business; and
- (b) not a Consumer Account.

PayPal means:

- (a) PayPal Australia Pty Ltd ACN 111 195 389 (**PayPal Australia**); or
- (b) a reporting entity that is, or becomes, a member of the PayPal DBG from time to time.

PayPal DBG (short for PayPal Designated Business Group) means the designated business group established by PayPal Australia under Chapter 2 of the AML/CTF Rules.

straight through processing transaction means accepting an electronic funds transfer instruction from the individual holder of a Consumer Account to transfer money in the following circumstances:

- (a) the transfer is recorded as a simultaneous debit and credit entry on the Consumer Account;
- (b) the money to be transferred is immediately drawn from another account provided by a financial institution that is not PayPal.

Note: See also the definition of *financial institution* in section 5.

Schedule 3—Repeals

Declaration 5 of 2011

1 The whole of the instrument

Repeal the instrument.

Declaration 3 of 2008

2 The whole of the instrument

Repeal the instrument.

Important Notice to the person named in this instrument

1. Under sections 136 and 137 of the Act, it is an offence to provide false or misleading information or documents. If any of the information submitted by the applicant or its representatives is found to be false or misleading, the modification may be revoked and action initiated against the applicant.
2. The person granted the modification may request the AUSTRAC CEO to revoke or vary it at any time.
3. Any request to vary this modification must be submitted to the AUSTRAC CEO or an approved delegate no later than 90 days before the date the change is requested to commence.