

# EXPOSURE DRAFT



EXPOSURE DRAFT

## Anti-Money Laundering and Counter-Terrorism Financing Rules 2024

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

Dated 2024

Brendan Thomas [**DRAFT ONLY—NOT FOR SIGNATURE**]  
Chief Executive Officer, Australian Transaction Reports and Analysis Centre

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# EXPOSURE DRAFT

Preliminary **Part 1**  
ML/TF risk assessment **Division 1**

Section 1

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## Part 1—Preliminary

### 1 Name

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing Rules 2024*.

### 2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	31 March 2026.	31 March 2026

Note: This table relates only to the provisions of this instrument as originally made.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

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

### 3 Authority

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

### 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in that Schedule, and any other item in that Schedule has effect according to its terms.

### 5 Definitions

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

- (a) designated service;
- (b) financial institution;
- (c) nested services relationship;
- (d) reporting entity;
- (e) transfer of value.

In this instrument:

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## Part 1 Preliminary

### Division 1 ML/TF risk assessment

#### Section 5

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**ABN** has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

**ACN** has the meaning given by section 9 of the *Corporations Act 2001*.

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

**ARBN** has the meaning given by section 9 of the *Corporations Act 2001*.

**BECS** means the Bulk Electronic Clearing System administered by the Australian Payments Network.

**card-based pull payment:** a transfer of value is a **card-based pull payment** if:

- (a) the value transferred is money; and
- (b) the transfer arises from the use of any of the following:
  - (i) a credit card;
  - (ii) a debit card;
  - (iii) a stored value card; and
- (c) the ordering institution issued that card; and
- (d) the beneficiary institution initiates the transfer by sending the payer's instruction for the transfer to the ordering institution; and
- (e) the beneficiary institution pays, or accepts liability to pay, the payee the money; and
- (f) in giving effect to the transfer, the money is transferred from the ordering institution to the beneficiary institution.

**Defence Department** means the Department administered by the Minister responsible for administering the *Defence Act 1903*.

**domestic transfer of value:** a transfer of value is a **domestic transfer of value** if the value to be transferred is in Australia and, as a result of the transfer, the value will be in Australia.

Note: See section 60 for the circumstances in which the value is *in* a country.

**Foreign Affairs Department** means the Department administered by the Minister responsible for administering the *Diplomatic Privileges and Immunities Act 1967*.

**Home Affairs Department** means the Department administered by the Minister responsible for administering the *Australian Border Force Act 2015*.

**independent evaluation report** has the meaning given by paragraph 15(2)(d).

**passport** means:

- (a) an Australian passport, within the meaning of the *Australian Passports Act 2005*; or
- (b) a passport or a similar document issued for the purpose of international travel that:
  - (i) contains a photograph and the signature of the person in whose name the document is issued; and



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- (ii) is issued by a foreign government, the United Nations or an agency of the United Nations.

*payable-through accounts* has the meaning given by paragraph 50(3)(g).

*payee information*, in relation to a transfer of value, means all of the following information:

- (a) the payee's full name;
- (b) tracing information in relation to the transfer of value.

*payer information*, in relation to a transfer of value, means all of the following information:

- (a) the payer's full name;
- (b) tracing information in relation to the transfer of value;
- (c) information that is one or more of the following:
  - (i) a unique customer identification number given to the payer by the ordering institution;
  - (ii) a unique identification number given to the payer by an Australian government body, other than the payer's tax file number (within the meaning of section 202A of the *Income Tax Assessment Act 1936*);
  - (iii) a unique identification number given to the payer by the government of a foreign country;
  - (iv) a unique identification number given to the payer by an organisation accredited by the Global Legal Entity Identification Foundation;
  - (v) if the payer is an individual—the payer's date and place of birth;
  - (vi) the payer's full business or residential address (not being a post box).

*tracing information*, in relation to a transfer of value, means information that satisfies the following:

- (a) the information:
  - (i) for a transfer from an account held by the payer with the ordering institution—enables the ordering institution to identify the account; or
  - (ii) for a transfer of a virtual asset from a custodial wallet—enables the ordering institution to identify the payer's virtual asset holdings in the wallet (such as by providing the wallet address, including the destination tag or memo details, if applicable); or
  - (iii) for a transfer of a virtual asset from a self-hosted virtual asset wallet—provides the address of the wallet; or
  - (iv) in any other case—provides a unique transaction reference number for the transfer of value;
- (b) the information:
  - (i) for a transfer in circumstances where the value is to be made available to the payee by depositing it into an account held by the payee—enables the beneficiary institution to identify the account; or
  - (ii) for a transfer of a virtual asset in circumstances where the asset is to be made available to the payee by transferring it to a custodial wallet—enables the beneficiary institution to identify the payer's virtual asset holdings in the wallet (such as by providing the wallet

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## Part 1 Preliminary

### Division 1 ML/TF risk assessment

#### Section 6

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address, including the destination tag or memo details, if applicable);  
or

- (iii) for a transfer of a virtual asset in circumstances where the value is to be made available to the payee by transferring it to a self-hosted virtual asset wallet—provides the address of the wallet; or
- (iv) in any other case—provides a unique transaction reference number for the transfer of value.

Note: An example of information to which subparagraphs (a)(i) and (b)(i) apply is a combination of a BSB and account number.

***ultimate parent*** of a remitter, virtual asset service provider or financial institution means a body corporate that:

- (a) controls the remitter, virtual asset service provider or financial institution; and
- (b) is not itself controlled by another body corporate.

***unique transaction reference number***, in relation to a transfer of value, means information to which both of the following paragraphs apply:

- (a) the information is a combination of any or all of the following:
  - (i) letters;
  - (ii) digits;
  - (iii) characters;
  - (iv) symbols;
- (b) the information distinguishes the transfer of value in a way that, either alone or in conjunction with any other information in the transfer message for the transfer of value, enables the ordering institution to associate the transfer of value with the payer, and the beneficiary institution to associate the transfer of value with the payee.

## 6 Approved third-party bill payment system

For the purposes of the definition of ***approved third-party bill payment system*** in section 5 of the Act, a bill payment system is prescribed if the system is developed, maintained and used exclusively to facilitate electronic bill payments by transmitting transfer messages for domestic transfers of value.

## 7 Domestic politically exposed person

For the purposes of paragraph (a) of the definition of ***domestic politically exposed person*** in section 5 of the Act, the following offices and positions are specified:

- (a) Governor-General;
- (b) Governor of a State;
- (c) Administrator of a Territory;
- (d) Justice of the High Court;
- (e) Judge of the Federal Court of Australia;
- (f) Judge of the Supreme Court of a State or Territory;

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- (g) accountable authority, or member of the accountable authority, of a Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act 2013*;
- (h) member of the governing body of a wholly-owned Commonwealth company within the meaning of the *Public Governance, Performance and Accountability Act 2013*;
- (i) head (however described) of a Department of State of a State or Territory;
- (j) in relation to a body (whether incorporated or not) established for a public purpose by or under a law of a State or Territory:
  - (i) head (however described) of the body; or
  - (ii) member of a governing body of the body; or
  - (iii) for a local government council—mayor or member of the council;
- (k) Chief of the Defence Force, Vice Chief of the Defence Force, Chief of Navy, Chief of Army or Chief of Air Force;
- (l) officer of the Navy of the rank of Vice Admiral or a higher rank;
- (m) officer of the Army of the rank of Lieutenant General or a higher rank;
- (n) officer of the Air Force of the rank of Air Marshal or a higher rank;
- (o) any of the following offices of the Commonwealth in a country or place outside Australia:
  - (i) Ambassador;
  - (ii) High Commissioner;
  - (iii) Chargé d’Affaires;
  - (iv) any other office that is a Head of Mission within the meaning of the *Public Service Act 1999*;
- (p) member of the governing body of a political party represented in the legislature of the Commonwealth or a State or Territory.

## 8 Lead entity of a reporting group

### *Purpose of section*

- (1) For the purposes of subsection 10A(5) of the Act, this section specifies which person in a reporting group is the lead entity for the reporting group.

### *Business groups*

- (2) For a reporting group within the meaning of paragraph 10A(1)(a) of the Act, the lead entity is (subject to subsections (3) and (4) of this section) the person in the reporting group that:
  - (a) provides a designated service (other than by operation of subsection 236B(2) of the Act); or
  - (b) is a resident of Australia; or
  - (c) is registered under Division 2 of Part 5B.2 of the *Corporations Act 2001*;and who controls all other members of the group who provide a designated service.

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## Part 1 Preliminary

### Division 1 ML/TF risk assessment

#### Section 8

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- (3) If more than one person in the group satisfies the criteria in subsection (2), the lead entity is the person that has the most direct control of all other members of the group that provide a designated service.
- (4) If no person in the group satisfies the criteria in subsection (2), the lead entity is *[to be drafted]*.

#### *Groups formed by election*

- (5) For a reporting group within the meaning of paragraph 10A(1)(b) of the Act, the lead entity is *[to be drafted]*.

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Enrolment [to be drafted] **Part 2**  
ML/TF risk assessment **Division 1**

Section 8

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## **Part 2—Enrolment [to be drafted]**

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**Part 3** Registration [to be drafted]

**Division 1** ML/TF risk assessment

Section 8

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**Part 3—Registration [to be drafted]**

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AML/CTF programs **Part 4**  
ML/TF risk assessment **Division 1**

Section 9

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## **Part 4—AML/CTF programs**

### **Division 1—ML/TF risk assessment**

#### **9 Review of ML/TF risk assessment**

- (1) For the purposes of subparagraph 26D(1)(a)(iii) of the Act, a reporting entity must review its ML/TF risk assessment if an independent evaluation report contains adverse findings in relation to the ML/TF risk assessment.
- (2) For the purposes of paragraph 26D(2)(d) of the Act, the review must be undertaken as soon as practicable after the governing body of the reporting entity receives the independent evaluation report.

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Part 4 AML/CTF programs  
Division 2 AML/CTF policies

Section 10

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## Division 2—AML/CTF policies

### 10 Prevention of tipping off

For the purposes of paragraph 26F(4)(g) of the Act, the AML/CTF policies of a reporting entity must deal with establishing safeguards to prevent any contravention of subsection 123(1) of the Act by the reporting entity or an officer, employee or agent of the reporting entity, including by ensuring the confidentiality and appropriate use of information disclosed by the reporting entity to persons employed or otherwise engaged by the reporting entity.

### 11 Provision of information to governing body

For the purposes of paragraph 26F(4)(g) of the Act, the AML/CTF policies of a reporting entity must deal with the provision of information to the governing body of the reporting entity to enable the governing body to fulfil its responsibilities under subsection 26H(1) of the Act.

### 12 Reporting from AML/CTF compliance officer to governing body

- (1) For the purposes of paragraph 26F(4)(g) of the Act, the AML/CTF policies of a reporting entity must deal with ensuring its governing body receives reporting from its AML/CTF compliance officer about the following matters:
  - (a) the reporting entity's compliance with its AML/CTF policies;
  - (b) the extent to which the reporting entity's AML/CTF policies are appropriately managing and mitigating the risks of money laundering, financing of terrorism and proliferation financing that the reporting entity may reasonably face in providing its designated services;
  - (c) the reporting entity's compliance with the Act, the regulations and the AML/CTF Rules.
- (2) The AML/CTF policies of a reporting entity must provide for the reporting mentioned in subsection (1) to occur regularly, with a frequency of at least once every 12 months.

### 13 Undertaking personnel due diligence

- (1) For the purposes of paragraph 26F(7)(a) of the Act, this section specifies requirements in relation to the matter mentioned in paragraph 26F(4)(d) of the Act (undertaking due diligence in relation to persons who are, or will be, employed or otherwise engaged by the reporting entity).
- (2) The AML/CTF policies of the reporting entity must require the reporting entity, as part of undertaking that due diligence, to assess, both before a person's employment or engagement of a person and during a person's employment or engagement:
  - (a) the person's skills, knowledge and expertise relevant to the particular responsibilities of the person under the AML/CTF policies; and
  - (b) the person's integrity.



## 14 Providing personnel training

- (1) For the purposes of paragraph 26F(7)(a) of the Act, this section specifies requirements in relation to the matter mentioned in paragraph 26F(4)(e) of the Act (providing training to persons who are employed or otherwise engaged by the reporting entity).
- (2) The AML/CTF policies of the reporting entity must deal with both initial training upon a person's employment or engagement and ongoing training during a person's employment or engagement.
- (3) The AML/CTF policies of the reporting entity must require that the training provided to a person:
  - (a) is appropriate having regard to:
    - (i) the particular function performed by the person; and
    - (ii) the particular risks of money laundering, financing of terrorism and proliferation financing that are relevant to the person's function; and
    - (iii) the particular responsibilities of the person under the AML/CTF policies; and
  - (b) is readily understandable by the person.

## 15 Independent evaluations

- (1) For the purposes of paragraph 26F(7)(a) of the Act, this section specifies requirements in relation to the matter mentioned in paragraph 26F(4)(f) of the Act (the conduct of independent evaluations of the reporting entity's AML/CTF program).
- (2) The AML/CTF policies of the reporting entity must require the following as part of the conduct of an independent evaluation:
  - (a) evaluation of the steps taken by the reporting entity when undertaking or reviewing the reporting entity's ML/TF risk assessment, against the requirements of the Act, the regulations and the AML/CTF Rules;
  - (b) evaluation of the design of the reporting entity's AML/CTF policies, against the requirements of the Act, the regulations and the AML/CTF Rules;
  - (c) testing and evaluation of the compliance of the reporting entity with the reporting entity's AML/CTF policies;
  - (d) production of a written report (an *independent evaluation report*) containing findings on the matters mentioned in paragraphs (a) to (c);
  - (e) delivery of the independent evaluation report to the governing body of the reporting entity and to any senior manager responsible for approvals under section 26P of the Act.
- (3) The AML/CTF policies of the reporting entity must deal with how the reporting entity will respond to an independent evaluation report.

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Part 4 AML/CTF programs  
Division 2 AML/CTF policies

## Section 16

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### 16 Reviewing and updating AML/CTF policies following independent evaluation

For the purposes of subparagraph 26F(3)(c)(ii) of the Act, the AML/CTF policies of a reporting entity must deal with reviewing and updating the AML/CTF policies in response to an independent evaluation report that contains adverse findings in relation to the AML/CTF policies.

### 17 Fulfilling reporting obligations

For the purposes of paragraph 26F(4)(g) of the Act, the AML/CTF policies of a reporting entity must deal with ensuring that information reported by the entity under sections 41, 43, 46 and 46A of the Act is complete, accurate and free from unauthorised change.

### 18 Assessment of potential suspicious matters

For the purposes of paragraph 26F(4)(g) of the Act, the AML/CTF policies of a reporting entity must deal with the following:

- (a) enabling timely review of material that is relevant to matters that may need to be reported under section 41 of the Act;
- (b) ensuring determination, as soon as practicable, of whether the reporting entity suspects on reasonable grounds any of the matters referred to in paragraphs 41(1)(d) to (j) of the Act.

### 19 Requirements for senior manager to give approval or be informed

- (1) For the purposes of paragraph 26F(3)(e) of the Act, the AML/CTF policies of a reporting entity must ensure that the approval of a senior manager of the reporting entity is obtained before the reporting entity does any of the following:
  - (a) commences to provide a designated service to a customer, if the customer, any beneficial owner of the customer or any person on whose behalf the customer is receiving the service is a foreign politically exposed person;
  - (b) commences to provide a designated service to a customer, if:
    - (i) the customer, any beneficial owner of the customer or any person on whose behalf the customer is receiving the service is a domestic politically exposed person; and
    - (ii) the ML/TF risk of the customer is high;
  - (c) commences to provide a designated service to a customer, if:
    - (i) the customer, any beneficial owner of the customer or any person on whose behalf the customer is receiving the service is an international organisation politically exposed person; and
    - (ii) the ML/TF risk of the customer is high;
  - (d) commences to provide a designated service as part of a nested services relationship;
  - (e) enters into an agreement or arrangement of the kind referred to in paragraph 37A(1)(a) of the Act as the first entity.
- (2) For the purposes of paragraph 26F(3)(e) of the Act, the AML/CTF policies of a reporting entity must ensure that a senior manager of the reporting entity is

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informed before the reporting entity commences to provide a designated service covered by item 39 of table 1 in section 6 of the Act to a customer if the ML/TF risk of the customer is high.

## **20 Policies relating to the obligations of ordering institutions relating to virtual asset transfers**

For the purposes of paragraph 26F(3)(e) of the Act, the AML/CTF policies of a reporting entity must deal with the following if the reporting entity is to provide a designated service covered by item 29 of table 1 in section 6 of the Act, as an ordering institution, in relation to the transfer of a virtual asset:

- (a) how the reporting entity will undertake due diligence to determine:
  - (i) whether the wallet to which the virtual asset is being transferred is a custodial wallet or a self-hosted wallet; and
  - (ii) if the wallet is a custodial wallet—whether the person who controls the wallet is required to be licensed or registered under a law that gives effect to the FATF Recommendations, and, if the person is so required, whether the person is so licensed or registered;
- (b) if the person who controls the wallet is a person licensed or registered under a law that gives effect to the FATF Recommendations, or a person not required to be so licensed or registered—how the reporting entity will determine whether the beneficiary institution is capable of:
  - (i) receiving the information that the reporting entity is required to pass on under subsection 64(3) of the Act securely; and
  - (ii) safeguarding the confidentiality of that information;
- (c) if the wallet is a self-hosted wallet—how the reporting entity will identify the payee and any steps the reporting entity will take to verify the person who controls the wallet;
- (d) how the reporting entity will manage and mitigate the ML/TF risk of transferring the virtual asset if the person who controls the wallet is:
  - (i) the payee in a case where the person who controls the wallet has not been verified; or
  - (ii) a person not required to be licensed or registered under a law that gives effect to the FATF Recommendations.

Note: Subsection 66A(4) of the Act prohibits provision of the designated service if the transfer of value is to a person who is required to be licensed or registered under a law that gives effect to the FATF Recommendations, but is not so licensed or registered.

## **21 Policies relating to the obligations of beneficiary institutions**

### *Policies relating to all transfers of value*

- (1) For the purposes of paragraph 26F(3)(e) of the Act, the AML/CTF policies of a reporting entity must deal with the following if the reporting entity is to provide a designated service covered by item 30 of table 1 in section 6 of the Act, as a beneficiary institution to a payee:
  - (a) reasonable steps to monitor:

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Part 4 AML/CTF programs  
Division 2 AML/CTF policies

## Section 21

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- (i) whether the reporting entity has received the information specified in the AML/CTF Rules for the purposes of subsection 65(2) of the Act relating to the transfer of value; and
- (ii) whether the information received about the payee is accurate;
- (b) determining whether to make the transferred value available to the payee in the circumstances described in subsection 65(3) of the Act;
- (c) determining whether to request further information from another institution in the value transfer chain in the circumstances described in subsection 65(3) of the Act.

Note: Subsection 66A(6) of the Act prohibits a beneficiary institution from providing the designated service in relation to the transfer of a virtual asset if it has not received all of the information, unless the exception in subsection 66A(10) applies.

### *Policies relating to virtual asset transfers*

- (2) The AML/CTF policies of the reporting entity must also deal with the following if the designated service is to be provided in relation to the transfer of a virtual asset:
  - (a) how the reporting entity will undertake due diligence to determine:
    - (i) whether the wallet from which the virtual asset is being transferred is a custodial wallet or a self-hosted wallet; and
    - (ii) if the wallet is a custodial wallet—whether the person who controls the wallet is required to be licensed or registered under a law that gives effect to the FATF Recommendations, and, if the person is so required, whether the person is so licensed or registered;
  - (b) if the person who controls the wallet is a person who is licensed or registered under a law that gives effect to the FATF Recommendations, or a person not required to be so licensed or registered—how the reporting entity will determine whether the ordering institution, and any intermediary institution, is capable of securely passing on the information specified in the AML/CTF Rules for the purposes of subsection 65(2) of the Act relating to the transfer of value;
  - (c) if the wallet is a self-hosted wallet—how the reporting entity will identify the payer and any steps the reporting entity will take to verify the person who controls the wallet;
  - (d) how the reporting entity will manage and mitigate the ML/TF risk of transferring the virtual asset if the person who controls the wallet is:
    - (i) the payer in a case where the person who controls the wallet has not been verified; or
    - (ii) a person not required to be licensed or registered under a law that gives effect to the FATF Recommendations; or
    - (iii) a person licensed or registered under a law that gives effect to the FATF Recommendations, in a case where the ordering institution or any intermediary institution is not capable of securely passing on information.

Note: Subsection 66A(7) of the Act prohibits provision of the service if the person who controls the wallet is required to be licensed or registered under a law that gives effect to the FATF Recommendations, but is not so licensed or registered.

# EXPOSURE DRAFT

## **22 Policies relating to the obligations of intermediary institutions**

For the purposes of paragraph 26F(3)(e) of the Act, the AML/CTF policies of a reporting entity must deal with the following if the reporting entity is to provide a designated service covered by item 31 of table 1 in section 6 of the Act, as an intermediary institution, in relation to a transfer of value:

- (a) reasonable steps to monitor whether the reporting entity has received the information specified in the AML/CTF Rules for the purposes of subsection 66(2) of the Act relating to the transfer of value;
- (b) determining whether to pass on a transfer message for the transfer of value in the circumstances described in subsection 66(3) of the Act;
- (c) determining whether to request further information from another institution in the value transfer chain in the circumstances described in subsection 66(3) of the Act.

# EXPOSURE DRAFT

Part 4 AML/CTF programs

Division 3 AML/CTF compliance officers

Section 23

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## Division 3—AML/CTF compliance officers

### 23 AML/CTF compliance officer requirements—matters to have regard to in determining whether a fit and proper person

For the purposes of subsection 26J(4) of the Act, a reporting entity must have regard to the following matters in determining whether an individual is a fit and proper person for the purposes of paragraph 26J(3)(b) of the Act:

- (a) whether the individual possesses the competence, character, diligence, honesty, integrity and judgement to properly perform the duties of the AML/CTF compliance officer for the reporting entity;
- (b) whether the individual has been convicted of a serious offence;
- (c) whether the individual has been the subject of adverse findings, or found to have engaged in serious misconduct, by a regulatory body in Australia or a foreign country;
- (d) whether the individual is an undischarged bankrupt under the law of Australia or a foreign country;
- (e) whether the individual has executed a personal insolvency agreement under Part X of the *Bankruptcy Act 1966* or a similar law of a foreign country;
- (f) whether the individual has a conflict of interest that will create a material risk that the individual will fail to properly perform the duties of the AML/CTF compliance officer for the reporting entity.

Note: Paragraph (b) does not affect the operation of Part VIIC of the *Crimes Act 1914*, which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them.

# EXPOSURE DRAFT

## **Division 4—AML/CTF program documentation**

### **24 Time period for AML/CTF program documentation**

- (1) For the purposes of subsection 26N(1) of the Act, a reporting entity must document:
  - (a) the ML/TF risk assessment undertaken by the reporting entity under section 26C of the Act; and
  - (b) the AML/CTF policies developed by the reporting entity under section 26F of the Act;within the period ending immediately before the reporting entity first commences providing a designated service to a customer.
- (2) For the purposes of subsection 26N(1) of the Act, if a reporting entity:
  - (a) updates its ML/TF risk assessment under section 26D of the Act; or
  - (b) updates its AML/CTF policies;the reporting entity must document its AML/CTF program (as updated) within *[to be drafted]* after the update occurs.

# EXPOSURE DRAFT

## Part 5 Customer due diligence

### Division 1 Matters to be established in initial customer due diligence

#### Section 25

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## Part 5—Customer due diligence

### Division 1—Matters to be established in initial customer due diligence

#### 25 Establishing the identity of the customer—individuals (accounts and transfer of value)

- (1) For the purposes of paragraph 28(6)(a) of the Act, the requirements in this section apply in relation to a reporting entity establishing on reasonable grounds the matter in paragraph 28(2)(a) of the Act (the identity of the customer) if:
  - (a) the customer is an individual; and
  - (b) a designated service covered by item 1, 3, 5, 29 or 30 of table 1 in section 6 of the Act is proposed to be provided to the customer at or through a permanent establishment of the reporting entity in Australia.
- (2) The reporting entity must collect and verify at least the following KYC information about the customer:
  - (a) date of birth;
  - (b) place of birth.

#### 26 Establishing the identity of the customer—businesses

- (1) For the purposes of paragraph 28(6)(a) of the Act, the requirements in this section apply in relation to a reporting entity establishing on reasonable grounds the matter in paragraph 28(2)(a) of the Act (the identity of the customer) if:
  - (a) either:
    - (i) the customer is a person other than an individual; or
    - (ii) the provision of a designated service is proposed to relate to the customer's conduct of a business; and
  - (b) a designated service is proposed to be provided by the reporting entity to the customer at or through a permanent establishment of the reporting entity in Australia.
- (2) The reporting entity must collect and verify at least the following KYC information about the customer:
  - (a) the customer's name, and any trading name or registered name of the customer;
  - (b) a unique identification number given to the customer (if any has been given) by:
    - (i) an Australian government body (but not including the payer's tax file number (within the meaning of section 202A of the *Income Tax Assessment Act 1936*)); or
    - (ii) the government of a foreign country; or
    - (iii) an organisation accredited by the Global Legal Entity Identification Foundation;
  - (c) the address of any registered office of the customer;



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- (d) the address of any principal place of business or operations of the customer.

## **27 Additional matters for initial customer due diligence**

### *Scope of section*

- (1) For the purposes of paragraph 28(2)(g) of the Act, this section specifies matters in relation to a customer if the reporting entity provides its designated services at or through a permanent establishment of the reporting entity in Australia.

### *Business customers*

- (2) If the provision of a designated service is proposed to relate to the customer's conduct of a business, a specified matter is the nature of the customer's business.

### *Ownership and control etc.*

- (3) For any customer other than an individual or a government body, the ownership, control and management structure of the customer is specified.

### *Legal or official documentation*

- (4) For any customer other than an individual acting on their own behalf or a government body, the legal or official documentation which demonstrates how the customer is regulated is specified.

Note: Examples include the constitution of a body corporate, a partnership agreement or a trust deed.

### *Trustees*

- (5) If the customer is a trustee, the following matters are specified:
- (a) the type of trust (such as discretionary trust, bare trust, unit trust or implied trust);
  - (b) the identity of the settlor of the trust;
  - (c) the identity of any appointor, guardian or protector of the trust.

## **28 Establishing the identity of any person on whose behalf the customer is receiving the designated service—class of beneficiary**

- (1) For the purposes of paragraph 28(6)(a) of the Act, the requirements in this section apply in relation to establishing on reasonable grounds the matter in paragraph 28(2)(b) of the Act (the identity of any person on whose behalf the customer is receiving the designated service) if:
- (a) a designated service is proposed to be provided by the reporting entity to the customer at or through a permanent establishment of the reporting entity in Australia; and
  - (b) the customer is a trustee; and
  - (c) it is not possible to identify each beneficiary of the trust because of the nature of the trust.

# EXPOSURE DRAFT

## Part 5 Customer due diligence

### Division 1 Matters to be established in initial customer due diligence

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Note: This section does not affect the requirement to establish the matter mentioned in paragraph 28(2)(b) of the Act in other cases.

- (2) The reporting entity must:
- (a) establish on reasonable grounds a description of each class of beneficiary; and
  - (b) collect sufficient information for the reporting entity to be satisfied that it will be able to establish the identity of beneficiaries when there is a distribution from the trust or when a beneficiary intends to exercise vested rights.

#### **29 Establishing the identity of agents, beneficial owners etc.**

- (1) For the purposes of paragraph 28(6)(a) of the Act, this section specifies requirements in relation to establishing on reasonable grounds any of the matters in subsection 28(2) of the Act (including matters specified by the AML/CTF Rules under paragraph 28(2)(g) of the Act), if the matter involves establishing the identity of a person other than the customer.

Note: For example, establishing the identity of any person acting on behalf of the customer or of any beneficial owners.

- (2) A reporting entity must:
- (a) collect the same information about the identity of the person that it would be required to collect in undertaking initial customer due diligence if the person were a customer; and
  - (b) verify information about the identity of the person in the same way that it would be required to if the person were a customer; and
  - (c) apply the same AML/CTF policies in relation to identifying the person that it would apply in undertaking initial customer due diligence if the person were a customer.

# EXPOSURE DRAFT

## **Division 2—Exemptions from initial customer due diligence**

### **30 Exemption from initial customer due diligence (delayed verification)— opening an account and deposit**

- (1) For the purposes of paragraph 29(a) of the Act, a reporting entity may commence to provide a designated service to a customer (subject to other requirements) if:
  - (a) the designated service is covered by item 1 of table 1 in section 6 of the Act; or
  - (b) the designated service is covered by item 3 of table 1 in section 6 of the Act, and the transaction is a deposit made to the account; or
  - (c) provision of the designated service is reasonably incidental to the provision of a designated service mentioned in paragraph (a) or (b) of this subsection.
- (2) For the purposes of paragraph 29(f) of the Act, a requirement in all of the circumstances mentioned in subsection (1) of this section is that the reporting entity must do the following in relation to the customer to whom the designated service is to be provided:
  - (a) if the customer is an individual—take reasonable steps to establish that the customer is the person the customer claims to be;
  - (b) identify the ML/TF risk of the customer, based on KYC information about the customer that is reasonably available to the reporting entity before commencing to provide the designated service;
  - (c) collect KYC information about the customer that is appropriate to the ML/TF risk of the customer.

### **31 Exemption from initial customer due diligence (delayed verification)—certain financial markets transactions**

#### *Circumstances*

- (1) For the purposes of paragraph 29(a) of the Act, a reporting entity may commence to provide a designated service to a customer (subject to other requirements) if:
  - (a) the designated service is covered by item 33 of table 1 in section 6 of the Act; and
  - (b) the acquisition or disposal is of a security, derivative or foreign exchange contract on a declared financial market (within the meaning of the *Corporations Act 2001*); and
  - (c) the acquisition or disposal must be performed rapidly due to financial market conditions relevant to the transaction.

#### *Specified period*

- (2) For the purposes of subparagraph 29(c)(ii) of the Act, in the circumstances mentioned in subsection (1) of this section the specified period is 5 business days.

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## Part 5 Customer due diligence

### Division 2 Exemptions from initial customer due diligence

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##### *Requirements*

- (3) For the purposes of paragraph 29(f) of the Act, a requirement in circumstances mentioned in subsection (1) of this section is that the reporting entity must do the following in relation to the customer to whom the designated service is to be provided:
  - (a) if the customer is an individual—take reasonable steps to establish that the customer is the person the customer claims to be;
  - (b) identify the ML/TF risk of the customer, based on KYC information about the customer that is reasonably available to the reporting entity before commencing to provide the designated service;
  - (c) collect KYC information about the customer that is appropriate to the ML/TF risk of the customer.
- (4) For the purposes of paragraph 29(f) of the Act, further requirements in the circumstances mentioned in subsection (1) of this section are:
  - (a) the designated service must not involve the acquisition of an interest in a managed investment scheme to which section 1019B of the *Corporations Act 2001* applies; and
  - (b) the reporting entity must not do any of the following:
    - (i) accept physical currency to fund the designated service;
    - (ii) permit the customer to transfer, or otherwise part with, proceeds from a disposal of a security, derivative or foreign exchange contract;
    - (iii) resell, transfer, or otherwise part with a security, derivative or foreign exchange contract that has been acquired on behalf of the customer;
    - (iv) allow the customer to be recredited with or obtain a refund of the purchase price.

#### **32 Exemption from initial customer due diligence (politically exposed persons and sanctions)—service provided in Australia**

- (1) For the purposes of paragraph 29(a) of the Act, a reporting entity may commence to provide a designated service to a customer (subject to other requirements) if the service is to be provided at or through a permanent establishment of the reporting entity in Australia.
- (2) For the purposes of paragraph 29(f) of the Act, a requirement in the circumstances mentioned in subsection (1) of this section is that the reporting entity has established each of the matters in subsection 28(2) of the Act except the matter in paragraph 28(2)(e).

#### **33 Exemption from initial customer due diligence (delayed verification)—service provided in foreign country**

- (1) For the purposes of paragraph 29(a) of the Act, a reporting entity may commence to provide a designated service to a customer (subject to other requirements) if:
  - (a) the service is to be provided at or through a permanent establishment of the reporting entity in a foreign country; and

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- (b) the law of that country that gives effect to the FATF Recommendations permits the reporting entity to establish a matter or matters in subsection 28(2) of the Act after providing the service.
- (2) For the purposes of paragraph 29(f) of the Act, a requirement in circumstances mentioned in subsection (1) of this section is that the reporting entity must do the following in relation to the customer to whom the designated service is to be provided:
- (a) if the customer is an individual—take reasonable steps to establish that the customer is the person the customer claims to be;
  - (b) identify the ML/TF risk of the customer, based on KYC information about the customer that is reasonably available to the reporting entity before commencing to provide the designated service;
  - (c) collect KYC information about the customer that is appropriate to the ML/TF risk of the customer.

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**Division 3** Simplified and enhanced customer due diligence

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## **Division 3—Simplified and enhanced customer due diligence**

### **34 Simplified customer due diligence requirements**

For the purposes of paragraph 31(c) of the Act, it is a requirement for a reporting entity to apply simplified customer due diligence measures that the AML/CTF policies of the reporting entity deal with the application of those measures.

### **35 Customers for whom enhanced customer due diligence is required**

For the purposes of paragraph 32(f) of the Act, enhanced customer due diligence must be applied to a customer who seeks designated services that have no apparent economic or legal purpose, if the proposed provision of designated services would involve:

- (a) unusually complex or large transactions; or
- (b) an unusual pattern of transactions.

## **Division 4—Deemed compliance**

### **36 Deemed compliance with initial customer due diligence—previous carrying out of applicable customer identification procedure**

For the purposes of paragraph 28(6)(b) of the Act, a reporting entity is taken to have complied with each of the matters mentioned in subsection 28(2) in relation to a customer if the reporting entity had, before 31 March 2026, carried out the applicable customer identification procedure in respect of that customer (within the meaning of the Act as in force immediately before that date).

### **37 Deemed compliance with initial customer due diligence—previous compliance in a foreign country**

For the purposes of paragraph 28(6)(b) of the Act, a reporting entity is taken to have complied with a matter mentioned in subsection 28(2) in relation to a customer if:

- (a) the reporting entity or another member of the reporting group of the reporting entity has previously commenced to provide a service (whether or not a designated service) to the customer at or through a permanent establishment in a foreign country; and
- (b) if the service was provided by another member of the reporting group—the other member was regulated by one or more laws of a foreign country that give effect to the FATF Recommendations relating to customer due diligence and record-keeping; and
- (c) the reporting entity or the other member of the reporting group complied with the matter as it applied to the provision of the service at or through a permanent establishment in a foreign country; and
- (d) either:
  - (i) the reporting entity holds the KYC information collected on the customer, and the reliable and independent data used to verify the KYC information, in connection with the provision of the service; or
  - (ii) the reporting entity has in place an arrangement permitting immediate access to the KYC information collected on the customer by the other member of the reporting group, and the reliable and independent data used to verify the KYC information, in connection with the provision of the service.

### **38 Deemed compliance with initial customer due diligence—customer cannot provide satisfactory evidence**

For the purposes of paragraph 28(6)(b) of the Act, a reporting entity is taken to have complied with a matter mentioned in subsection 28(2) in relation to a customer if:

- (a) the customer is an individual; and
- (b) the customer is unable to provide the information or evidence of identity necessary for the reporting entity to establish the matter because:
  - (i) the customer is unable to obtain the information or evidence; or

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- (ii) the customer is unable to access the information or evidence due to circumstances beyond the customer's control; and
- (c) the reporting entity has done all of the following:
  - (i) taken reasonable steps to establish that the customer is the person the customer claims to be;
  - (ii) identified the ML/TF risk of the customer, based on KYC information about the customer that is reasonably available to the reporting entity before commencing to provide the designated service;
  - (iii) collected KYC information about the customer that is appropriate to the ML/TF risk of the customer;
  - (iv) taken reasonable steps to verify, using data reasonably available to the reporting entity, such of the KYC information referred to in subparagraph (iii) as is appropriate to the ML/TF risk of the customer; and
- (d) the reporting entity has AML/CTF policies to mitigate and manage any additional ML/TF risk arising from the lack of the information or evidence.

#### **39 Deemed compliance with ongoing customer due diligence—monitoring of transactions and behaviours**

For the purposes of paragraph 30(3)(b) of the Act, a reporting entity is taken to comply with the requirement in paragraph 30(2)(a) of the Act, if:

- (a) the reporting entity monitors for unusual transactions and behaviours that may give rise to a suspicious reporting obligation because of the operation of paragraphs 41(1)(d) to (j) of the Act other than subparagraph 41(1)(f)(iii); and
- (b) the reporting entity monitors for unusual transactions and behaviours that may give rise to a suspicious reporting obligation because of the operation of subparagraph 41(1)(f)(iii) of the Act in relation to an offence against a law of the Commonwealth or of a State or Territory of any of the following kinds:
  - (i) money laundering;
  - (ii) financing of terrorism;
  - (iii) proliferation financing and other offences relating to the breach of sanctions;
  - (iv) participation in organised crime or racketeering;
  - (v) terrorism;
  - (vi) human trafficking or people smuggling;
  - (vii) sexual exploitation (including exploitation of children);
  - (viii) trafficking of illicit substances;
  - (ix) arms trafficking;
  - (x) other goods trafficking (including stolen goods);
  - (xi) corruption;
  - (xii) bribery;
  - (xiii) counterfeiting currency;
  - (xiv) fraud (including scams);
  - (xv) counterfeiting or piracy of products;



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- (xvi) crimes relating to taxation;
- (xvii) extortion;
- (xviii) forgery;
- (xix) piracy;
- (xx) insider trading and market manipulation;
- (xxi) environmental crime;
- (xxii) robbery or theft;
- (xxiii) kidnapping, illegal restraint or taking hostages;
- (xxiv) smuggling (including offences in relation to customs and excise);
- (xxv) murder or grievous bodily harm;
- (xxvi) cybercrime;
- (xxvii) any other kind of offence that the reporting entity has identified in its ML/TF risk assessment as presenting a high risk in relation to the occurrence of money laundering.

Note: Subparagraph 41(f)(iii) of the Act refers to the reporting entity suspecting on reasonable grounds that information it has 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.

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**Part 5** Customer due diligence

**Division 5** Politically exposed persons

Section 40

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## **Division 5—Politically exposed persons**

### **40 Matters for initial customer due diligence—politically exposed person**

- (1) For the purposes of paragraph 28(2)(g) of the Act, the matters in subsection (2) of this section are specified in relation to a customer if:
  - (a) the customer, any beneficial owner of the customer or any person on whose behalf the customer is receiving the designated service is a foreign politically exposed person; or
  - (b) both:
    - (i) the customer, any beneficial owner of the customer or any person on whose behalf the customer is receiving the designated service is a domestic politically exposed person; and
    - (ii) the ML/TF risk of the customer is high; or
  - (c) both:
    - (i) the customer, any beneficial owner of the customer or any person on whose behalf the customer is receiving the designated service is an international organisation politically exposed person; and
    - (ii) the ML/TF risk of the customer is high.
- (2) The matters are:
  - (a) the source of the politically exposed person's wealth; and
  - (b) the source of the politically exposed person's funds.

### **41 Ongoing customer due diligence—politically exposed person**

For the purposes of subparagraph 30(2)(c)(ii) of the Act, the reporting entity must review, and where appropriate, update and reverify KYC information relating to the customer if:

- (a) the customer, a beneficial owner of the customer or a person on whose behalf the customer is receiving the designated service becomes a foreign politically exposed person; or
- (b) both:
  - (i) the customer, a beneficial owner of the customer or a person on whose behalf the customer is receiving the designated service becomes a domestic politically exposed person; and
  - (ii) the ML/TF risk of the customer is high; or
- (c) both:
  - (i) the customer, a beneficial owner of the customer or a person on whose behalf the customer is receiving the designated service becomes an international organisation politically exposed person; and
  - (ii) the ML/TF risk of the customer is high.

## **Division 6—Nested service relationships**

### **42 Matters for initial customer due diligence—nested services relationship**

For the purposes of paragraph 28(2)(g) of the Act, the following matters are specified in relation to a customer of a reporting entity when a designated service is proposed to be provided to the customer as part of a nested services relationship:

- (a) the ownership, control and management structures of:
  - (i) the customer; and
  - (ii) the ultimate parent of the customer (if any);
- (b) the nature, size and complexity of the customer's business, including:
  - (i) the products and services offered by the customer, and the delivery channels by which it provides services; and
  - (ii) the kinds of customers that the customer of the reporting entity has; and
  - (iii) the kinds of transactions that would be carried out on behalf of the customer's own customers as part of the nested services relationship and the services that would be provided to those customers that relate to such transactions;
- (c) the country or countries:
  - (i) in which the customer operates or of which it is a resident; and
  - (ii) if the ultimate parent of the customer (if any) has group-wide anti-money laundering and counter-terrorism financing systems and controls, and the customer operates within the requirements of those controls—in which the ultimate parent operates or of which it is a resident;
- (d) the existence and quality of any anti-money laundering and counter-terrorism financing regulation and supervision in the country or countries identified under paragraph (c) and the customer's compliance practices in relation to those regulations;
- (e) the appropriateness of the customer's anti-money laundering and counter-terrorism financing systems and controls;
- (f) publicly available information relating to the reputation of the customer and the members of the business group of which the customer is a member (if any), including whether the customer or any members of the business group have been the subject of:
  - (i) a regulatory investigation relating to implementation of anti-money laundering, counter-terrorism financing or sanctions obligations; or
  - (ii) adverse regulatory action relating to implementation of anti-money laundering, counter-terrorism financing or sanctions obligations; or
  - (iii) an investigation or criminal or civil proceedings relating to money laundering, financing of terrorism or other serious crimes;
- (g) whether the customer of the reporting entity:

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- (i) would undertake initial customer due diligence and ongoing customer due diligence in relation to its own customers who would be provided services as part of the nested services relationship; and
- (ii) would be able to provide to the reporting entity, on request, information collected when the customer undertakes initial customer due diligence and ongoing customer due diligence in relation to those customers and the reliable and independent data used to verify the information;
- (h) whether the customer allows shell banks to receive services;
- (i) whether the customer of the reporting entity ensures that it does not provide services to its own customers in circumstances where those customers have a nested service relationship or correspondent banking relationship with a shell bank.

#### **43 Ongoing customer due diligence—nested services relationship**

- (1) For the purposes of subparagraph 30(2)(b)(iii) of the Act, if the reporting entity provides designated services to a customer as part of a nested services relationship, the reporting entity must review and, where appropriate, update the reporting entity's identification and assessment of the ML/TF risk of the customer no less than once every 2 years.
- (2) For the purposes of subparagraph 30(2)(c)(ii) of the Act, if the reporting entity provides designated services to a customer as part of a nested services relationship, the reporting entity must review and, where appropriate, update and reverify KYC information relating to the customer no less than once every 2 years.
- (3) For the purposes of subparagraph 30(2)(c)(ii) of the Act, the reporting entity must review, and where appropriate, update and reverify KYC information relating to the customer if the reporting entity commences to provide a designated service to the customer as part of a nested services relationship.

## **Division 7—Reliance on collection and verification of KYC information**

### **44 Requirements for agreement or arrangement on collection and verification of KYC information**

- (1) For the purposes of paragraph 37A(1)(b) of the Act, the following requirements are prescribed in relation to an agreement or arrangement of the kind referred to in paragraph 37A(1)(a) of the Act:
  - (a) the other party to the agreement or arrangement must be:
    - (i) a reporting entity; or
    - (ii) a person regulated by one or more laws of a foreign country that give effect to the FATF Recommendations relating to customer due diligence and record-keeping;
  - (b) the agreement or arrangement must be appropriate to the risks of money laundering, financing of terrorism and proliferation financing that the first entity may reasonably face in providing its designated services, taking into account the matters mentioned in subsection (2) of this section;
  - (c) the agreement or arrangement must enable the first entity to obtain all of the KYC information collected by the other person in accordance with paragraph 28(3)(c) of the Act:
    - (i) before the first entity commences to provide a designated service; or
    - (ii) if section 29 of the Act applies to the provision of a designated service—within the period mentioned in paragraph 29(c) of the Act;
  - (d) the agreement or arrangement must enable the first entity to obtain copies of the data used by the other person to verify KYC information in accordance with paragraph 28(3)(d) of the Act immediately or as soon as practicable following a request from the first entity;
  - (e) the agreement or arrangement must document the responsibilities of each party, including responsibilities for record-keeping.
- (2) For the purposes of paragraph (1)(b), the matters are as follows:
  - (a) the nature, size and complexity of the other person’s business, including:
    - (i) the products and services offered by the other person, and the delivery channels by which it provides services; and
    - (ii) the kinds of customers that the other person has;
  - (b) the country or countries in which the other person operates or of which the other person is a resident.

### **45 Requirements for reliance on collection and verification of KYC information**

For the purposes of paragraph 38(e) of the Act, the following requirements are prescribed:

- (a) the other person must be:
  - (i) a reporting entity; or

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### Division 7 Reliance on collection and verification of KYC information

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- (ii) a person regulated by one or more laws of a foreign country that give effect to the FATF Recommendations relating to customer due diligence and record-keeping;
- (b) reliance on that procedure must be appropriate to the risks of money laundering, financing of terrorism and proliferation financing that the first entity may reasonably face in providing its designated services, taking into account:
  - (i) the nature, size and complexity of the other person's business; and
  - (ii) the kinds of services provided by the other person; and
  - (iii) the kinds of customers to whom the other person's services are provided; and
  - (iv) the delivery channels by which the other person's services are provided; and
  - (v) the level of the risks of money laundering, financing of terrorism and proliferation financing in the country or countries in which the other person operates or of which the other person is a resident;
- (c) for compliance with paragraph 28(3)(c) of the Act—the first entity has reasonable grounds to believe that it can obtain all of the KYC information collected by the other person in accordance with that paragraph:
  - (i) before the first entity commences to provide a designated service; or
  - (ii) if section 29 of the Act applies to the provision of a designated service—within the period mentioned in paragraph 29(c) of the Act;
- (d) for compliance with paragraph 28(3)(d) of the Act—the first entity has reasonable grounds to believe that it can obtain copies of the data used by the other person to verify KYC information in accordance with that paragraph immediately or as soon as practicable following a request from the first entity;
- (e) the first entity documents the reasons for the first entity concluding that the requirements of paragraphs (b) to (d) of this section are met.

## Division 8—Keep open notices

### 46 Form of keep open notice

For the purposes of paragraph 39B(5)(a) of the Act, Form 1 in Schedule 1 to this instrument is prescribed as the form for a keep open notice.

### 47 Information and documents required to be contained in or to accompany keep open notice

- (1) For the purposes of paragraph 39B(5)(b) of the Act, this section sets out the information required to be contained in, and the documents required to accompany, a keep open notice issued by a senior member of an agency mentioned in subsection 39B(4) of the Act to a reporting entity.
- (2) The keep open notice must contain the following information:
  - (a) the name of the agency;
  - (b) the senior member's full name and position;
  - (c) the full name of the reporting entity;
  - (d) for each customer in relation to whom the keep open notice is issued:
    - (i) the customer's full name; and
    - (ii) the customer's date of birth, or an ACN or ABN of the customer, if known; and
    - (iii) any other known details of the customer that the senior member considers are necessary to provide to assist the reporting entity to identify the customer;
  - (e) a day specified for the purposes of paragraph 39B(6)(a) of the Act as the day on which the notice commences;
  - (f) a declaration by the senior member stating that the senior member reasonably believes that the provision of a designated service by the reporting entity to the customer or customers would assist in the investigation by the agency of a serious offence.

Note: For subparagraph (d)(iii), details that may assist the reporting entity to identify the customer could include:

- (a) the customer's address; and
  - (b) bank account details of the customer.
- (3) The keep open notice must be accompanied by any documents that the senior member considers are necessary to provide to assist the reporting entity to identify the customer or customers.

### 48 Extension notices

For the purposes of subsection 39B(7) of the Act, Form 2 in Schedule 1 to this instrument is prescribed as the form for an extension notice.

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**Part 5** Customer due diligence

**Division 8** Keep open notices

Section 49

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## **49 Further extension application**

For the purposes of paragraph 39B(8)(b) of the Act, Form 3 in Schedule 1 to this instrument is prescribed as the form of an application to the AUSTRAC CEO for a notice under paragraph 39B(8)(d).



## Part 6—Correspondent banking

### Division 1—Due diligence assessment for entry into correspondent banking relationship

#### 50 Requirements for due diligence assessment

- (1) For the purposes of paragraph 96(1)(a) of the Act, this section sets out requirements for the due diligence assessment to be carried out by a financial institution (the *correspondent*) in relation to an entry into a correspondent banking relationship with another financial institution (the *respondent*) that will involve a vostro account.
- (2) The due diligence assessment required to be carried out is an assessment of the risks of money laundering, financing of terrorism, proliferation financing and other serious crimes associated with the entry into the correspondent banking relationship.
- (3) In carrying out the due diligence assessment, the correspondent must consider the following matters:
  - (a) the ownership, control and management structures of:
    - (i) the respondent; and
    - (ii) the ultimate parent of the respondent (if any);
  - (b) the nature, size, and complexity of the respondent's business, including:
    - (i) the products and services offered by the respondent, and the delivery channels by which it provides services; and
    - (ii) the kinds of customers that the respondent has; and
    - (iii) the kinds of transactions that would be carried out on behalf of the respondent's customers as part of the correspondent banking relationship and the services that would be provided to the respondent's customers that relate to such transactions;
  - (c) the country or countries:
    - (i) in which the respondent operates or of which it is a resident; and
    - (ii) if the ultimate parent of the respondent (if any) has group-wide anti-money laundering and counter-terrorism financing systems and controls, and the respondent operates within the requirements of those controls—in which the ultimate parent operates or of which it is a resident;
  - (d) the existence and quality of any anti-money laundering and counter-terrorism financing regulation and supervision in the country or countries identified under paragraph (c) and the respondent's compliance practices in relation to those regulations;
  - (e) the appropriateness of the respondent's anti-money laundering and counter-terrorism financing systems and controls;
  - (f) publicly available information relating to the reputation of the respondent and the members of the business group of which the respondent is a

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## Part 6 Correspondent banking

### Division 1 Due diligence assessment for entry into correspondent banking relationship

#### Section 51

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member (if any), including whether the respondent or any members of the business group have been the subject of:

- (i) a regulatory investigation relating to implementation of anti-money laundering, counter-terrorism financing or sanctions obligations; or
  - (ii) adverse regulatory action relating to implementation of anti-money laundering, counter-terrorism financing or sanctions obligations; or
  - (iii) an investigation or criminal or civil proceedings relating to money laundering, financing of terrorism or other serious crimes;
- (g) if the correspondent is to maintain vostro accounts that can be accessed directly by the customers of the respondent (*payable-through accounts*)—whether the respondent:
- (i) would undertake initial customer due diligence and ongoing customer due diligence in relation to those customers; and
  - (ii) would be able to provide to the correspondent, on request, information collected when the respondent undertakes initial customer due diligence and ongoing customer due diligence in relation to those customers and the reliable and independent data used to verify the information.

#### **51 Matters to which a senior officer must have regard before giving approval**

- (1) For the purposes of paragraph 96(1)(b) of the Act, this section sets out the matters that a senior officer of a financial institution (the *correspondent*) must have regard to before approving the entry by the correspondent into a correspondent banking relationship with another financial institution (the *respondent*) that will involve a vostro account.
- (2) The senior officer must have regard to:
  - (a) the risks of money laundering, financing of terrorism, proliferation financing and other serious crimes assessed in the written record of the due diligence assessment carried out in relation to the entry into the correspondent banking relationship; and
  - (b) the appropriateness of the correspondent's AML/CTF program to manage and mitigate those risks.
- (3) If the correspondent is to maintain payable-through accounts, the senior officer must also have regard to the following:
  - (a) whether the senior officer is satisfied that the respondent will undertake initial customer due diligence and ongoing customer due diligence in relation to customers that have access to the payable-through accounts;
  - (b) whether the senior officer is satisfied that the respondent would be able to provide the correspondent, on request, information collected when the respondent undertakes initial customer due diligence and ongoing customer due diligence in relation to the customers that have access to the payable-through accounts and the reliable and independent data used to verify the information.

## Division 2—Requirements for ongoing due diligence assessments

### 52 Requirements for ongoing due diligence assessments

- (1) For the purposes of paragraph 96(3)(a) of the Act, this section sets out the requirements for the due diligence assessments that a financial institution (the *correspondent*) must carry out if it is in a correspondent banking relationship with another financial institution (the *respondent*) that involves a vostro account.
- (2) The due diligence assessments required to be carried out are assessments of the risks of money laundering, financing of terrorism, proliferation financing and other serious crimes associated with the correspondent banking relationship.
- (3) In carrying out the due diligence assessments, the correspondent must consider the matters set out in paragraphs 50(3)(a) to (g).

Note: Paragraphs 50(3)(a) to (g) set out matters that the correspondent must consider in carrying out a due diligence assessment in relation to an entry into a correspondent banking relationship with the respondent that will involve a vostro account.

### 53 Timing of ongoing due diligence assessments

- (1) For the purposes of paragraph 96(3)(b), this section sets out when a financial institution (the *correspondent*) must carry out due diligence assessments if it is in a correspondent banking relationship with another financial institution that involves a vostro account.
- (2) The correspondent must carry out due diligence assessments:
  - (a) at times determined appropriate by the correspondent, based on consideration of:
    - (i) the level of risk of money laundering, financing of terrorism, proliferation financing and other serious crimes associated with the correspondent banking relationship; and
    - (ii) any material change in respect of those risks; and
  - (b) in any event—at least every 2 years.

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## Part 7 Transfers of value

### Division 1 Ordering institutions and beneficiary institutions

#### Section 54

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## Part 7—Transfers of value

### Division 1—Ordering institutions and beneficiary institutions

#### 54 Determination of who is an *ordering institution*

- (1) For the purposes of subsection 63A(1) of the Act, this section provides for the determination of whether a person is an *ordering institution*.

Note: Subsection 63A(4) of the Act sets out circumstances in which a person is not an *ordering institution*.

- (2) A person is an *ordering institution* if:
- (a) in the course of carrying on a business, the person is the first person to satisfy one of the criteria in subsection (3) in relation to a transfer of value; and
  - (b) the criterion satisfied has a higher priority than any other criterion in that subsection that is satisfied by any other person in relation to the transfer.
- (3) The criteria (in descending order of priority) are as follows:
- (a) the person arranges for the transfer of value from the payer under an offsetting arrangement with the beneficiary institution;
  - (b) the person is authorised under an arrangement with the payer to transfer the value from another source;
  - (c) the person holds the value to be transferred in an account provided to the payer or otherwise on deposit from the payer (including in a virtual asset wallet);
  - (d) the person receives from the payer, or a person acting on behalf of the payer, the value that is to be transferred.

#### 55 Determination of who is a *beneficiary institution*

- (1) For the purposes of subsection 63A(5) of the Act, this section provides for the determination of whether a person is a *beneficiary institution*.

Note: Subsection 63A(8) of the Act sets out circumstances in which a person is not a *beneficiary institution*.

- (2) A person is a *beneficiary institution* if:
- (a) in the course of carrying on a business, the person is the first person to satisfy one of the criteria in subsection (3) in relation to a transfer of value; and
  - (b) the criterion satisfied has a higher priority than any other criterion in that subsection that is satisfied by any other person in relation to the transfer.
- (3) The criteria (in descending order of priority) are as follows:
- (a) the person arranges for the transferred value to be made available to the payee under an offsetting arrangement with the ordering institution;

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Transfers of value **Part 7**  
Ordering institutions and beneficiary institutions **Division 1**

Section 55

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- (b) the person makes the transferred value available to the payee, under an arrangement with the payee, by depositing the value with a third-party deposit-taker;
- (c) the person makes the transferred value available to the payee by depositing the value into an account held by the payee with the person, or otherwise holding the value on deposit for the payee;
- (d) the person makes the transferred value available to the payee directly, or to a person acting on behalf of the payee.

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Part 7 Transfers of value

Division 2 Transfers of value

Section 56

## Division 2—Transfers of value

### 56 Obligations of ordering institutions—collecting, verifying and passing on information

If the circumstances mentioned in column 1 of an item in the following table apply in relation to a transfer of value:

- (a) for the purposes of paragraph 64(2)(a) of the Act, the information that the ordering institution must collect is such information as is set out in column 2 of the item; and
- (b) for the purposes of paragraph 64(2)(b) of the Act, the ordering institution must verify such information as is set out in column 3 of the item in accordance with sections 28 and 30 of the Act (as applicable); and
- (c) for the purposes of subsection 64(3) of the Act, the information that the ordering institution must pass on to the next institution in the value transfer chain is such information as is set out in column 4 of the item.

#### Obligations of ordering institutions—collecting, verifying and passing on information

Item	Column 1 Circumstances	Column 2 Information to be collected	Column 3 Information to be verified	Column 4 Information to be passed on
1	none of the circumstances mentioned in items 2 to 7 apply	(a) payer information; and (b) payee information	payer information	(a) payer information; and (b) payee information
2	(a) the transfer of value is a domestic transfer of value; and (b) the ordering institution passes on the transfer message for the transfer of value through BECS	(a) payer information; and (b) payee information	payer information	tracing information
3	(a) the transfer of value is a domestic transfer of value; and (b) the ordering institution passes on the transfer message for the transfer of value through an	(a) payer information; and (b) payee information	payer information	tracing information

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Transfers of value **Part 7**  
Transfers of value **Division 2**

Section 57

## Obligations of ordering institutions—collecting, verifying and passing on information

Item	Column 1 Circumstances	Column 2 Information to be collected	Column 3 Information to be verified	Column 4 Information to be passed on
	approved third-party bill payment system			
4	the transfer message for the transfer of value contains information relating to multiple transfers of value from a payer	(a) payer information; and (b) payee information	payer information	(a) payer information; and (b) for each transfer of value in the transfer message: (i) tracing information; and (ii) payee information
5	the transfer of value is a card-based pull payment	not applicable	not applicable	card number of the card the payer used in relation to the card-based pull payment
6	the transfer of value is a refund of a card-based pull payment	not applicable	not applicable	card number of the card the payer used in relation to the card-based pull payment that is refunded
7	the value is being transferred to a self-hosted virtual asset wallet	(a) payer information; and (b) payee information	payer information	not applicable

Note 1: For columns 2 and 3 of items 5 and 6 of the table, subsection 59(5) provides that paragraphs 64(2)(a) and (b) of the Act do not apply to a transfer of value that is a card-based pull payment.

Note 2: For column 4 of item 7 of the table, subsection 59(6) provides that subsection 64(3) of the Act does not apply to a transfer of value if the value is being transferred to a self-hosted virtual asset wallet.

Note 3: Obligations on reporting entities also arise under sections 28 (initial customer due diligence) and 30 (ongoing customer due diligence) of the Act.

## 57 Obligations of beneficiary institutions—monitoring for receipt of information

For the purposes of subsection 65(2) of the Act, if the circumstances mentioned in column 1 of an item of the following table apply in relation to a transfer of value, the information that the beneficiary institution must take reasonable steps to monitor whether it has received is such information relating to the transfer of value as is set out in column 2 of the item.

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<b>Obligations of beneficiary institutions—monitoring for receipt of information</b>		
<b>Item</b>	<b>Column 1 Circumstances</b>	<b>Column 2 Information to monitor</b>
1	none of the circumstances mentioned in items 2 to 8 apply	(a) payer information; and (b) payee information
2	(a) the transfer of value is a domestic transfer of value; and (b) the beneficiary institution receives the transfer message for the transfer of value through BECS	tracing information
3	(a) the transfer of value is a domestic transfer of value; and (b) the beneficiary institution receives the transfer message for the transfer of value through an approved third-party bill payment system	tracing information
4	the transfer message for the transfer of value contains information relating to multiple transfers of value from a payer	(a) payer information; and (b) for each transfer of value in the transfer message: (i) tracing information; and (ii) payee information
5	the transfer of value is a card-based pull payment	card number of the card the payer used in relation to the card-based pull payment
6	the transfer of value is a refund of a card-based pull payment	card number of the card the payer used in relation to the card-based pull payment that is refunded
7	(a) the value being transferred is money; and (b) the money is in a foreign country and, as a result of the provision of an international value transfer service, the money will be in Australia; and (c) the beneficiary institution receives the transfer message for the transfer of value through BECS	tracing information
8	the value is transferred from a self-hosted virtual asset wallet	(a) payer information; and (b) payee information

#### **58 Obligations of intermediary institutions—monitoring for receipt of information and passing on information**

If the circumstances mentioned in column 1 of an item in the following table apply in relation to a transfer of value:

- (a) for the purposes of subsection 66(2) of the Act, the information that an intermediary institution must take reasonable steps to monitor whether it has received is such information relating to the transfer of value as is set out in column 2 of the item; and
- (b) for the purposes of paragraph 66(4)(a) of the Act, the information the intermediary institution must include is such information set out in column



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Transfers of value **Division 2**

Section 58

3 of the item as is received from the previous institution in the value transfer chain.

## Obligations of intermediary institutions—monitoring for receipt of information and passing on information

Item	Column 1 Circumstances	Column 2 Information to monitor	Column 3 Information to pass on
1	none of the circumstances mentioned in items 2 to 7 apply	(a) payer information; and (b) payee information	(a) payer information, and (b) payee information
2	(a) the transfer of value is a domestic transfer of value; and (b) the transfer message for the transfer of value is passed on through BECS	tracing information	tracing information
3	(a) the transfer of value is a domestic transfer of value; and (b) the transfer message for the transfer of value is passed on through an approved third-party bill payment system	tracing information	tracing information
4	the transfer message for the transfer of value contains information relating to multiple transfers of value from a payer	(a) payer information, and (b) for each transfer of value in the transfer message: (i) tracing information, and (ii) payee information	(a) payer information, and (b) for each transfer of value in the transfer message: (i) tracing information; and (ii) payee information
5	the transfer of value is a card-based pull payment	card number of the card the payer used in relation to the card-based pull payment	card number of the card the payer used in relation to the card-based pull payment
6	the transfer of value is a refund of a card-based pull payment	card number of the card the payer used in relation to the card-based pull payment that is refunded	card number of the card the payer used in relation to the card-based pull payment that is refunded
7	(a) the value being transferred is money; and (b) the money is in a foreign country and, as a result of the provision of an international value transfer service, the money will be in Australia; and (c) the intermediary institution passes on the transfer message for the transfer of	(a) payer information; and (b) payee information	tracing information

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**Part 7** Transfers of value

**Division 2** Transfers of value

Section 58

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**Obligations of intermediary institutions—monitoring for receipt of information and passing on information**

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<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
	<b>Circumstances</b>	<b>Information to monitor</b>	<b>Information to pass on</b>
	value through BECS		

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## Division 3—Transfers of value exemptions

### 59 Transfer of value exemptions

- (1) This section is made for the purposes of paragraph 67(1)(b) of the Act.

#### *Inter-financial institution transfers*

- (2) Part 5 of the Act does not apply to a transfer of value if the payer and the payee are:
- (a) financial institutions; and
  - (b) acting on their own behalf.
- (3) Part 5 of the Act does not apply to a transfer of value if:
- (a) the transfer message for the transfer of value is sent using the Society for Worldwide Interbank Financial Telecommunication payment delivery system; and
  - (b) the payer and the payee are:
    - (i) Supervised Financial Institutions within the meaning of the document titled *SWIFT Corporate Rules*, published by the Society for Worldwide Interbank Financial Telecommunications, as existing on the commencement of this instrument; and
    - (ii) acting on their own behalf.

Note: The *SWIFT Corporate Rules* could in 2024 be viewed on the Society for Worldwide Interbank Financial Telecommunications website (<https://www.swift.com>).

#### *Cheques*

- (4) Part 5 of the Act does not apply to a transfer of value if:
- (a) the instruction for the transfer of value is given to the ordering institution by way of a cheque; and
  - (b) the cheque is drawn on the ordering institution.

#### *Card-based pull payments*

- (5) Paragraphs 64(2)(a) and (b) and (5)(a) of the Act do not apply to a transfer of value if the transfer of value is:
- (a) a card-based pull payment; or
  - (b) a refund of a card-based pull payment.

#### *Transfers to a self-hosted virtual asset wallet*

- (6) Subsection 64(3) of the Act and paragraph 64(5)(b) of the Act do not apply to a transfer of value if the value is being transferred to a self-hosted virtual asset wallet.

# EXPOSURE DRAFT

Part 7 Transfers of value

Division 4 International value transfer services

Section 60

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## Division 4—International value transfer services

### 60 When value is in a country

For the purposes of subsection 45(2) of the Act, each of the following is a circumstance in which value, in relation to a transfer of value, is *in* a country:

- (a) the payer provides the value to the ordering institution at or through a permanent establishment of the ordering institution in the country;
- (b) the ordering institution holds the value to be transferred in an account provided to the payer or otherwise on deposit for the payer (including in a virtual asset wallet) at or through a permanent establishment of the ordering institution in the country;
- (c) the ordering institution is authorised under an arrangement with the payer to transfer the value from another person at or through a permanent establishment of the other person in the country;
- (d) the ordering institution or beneficiary institution initiates an offsetting arrangement that includes transferring the value within the country;
- (e) the beneficiary institution makes the value available to the payee:
  - (i) at or through a permanent establishment of the beneficiary institution in the country; or
  - (ii) by depositing the value with a person at or through a permanent establishment of the person in the country; or
  - (iii) by depositing the value into an account held by the payee with the beneficiary institution or otherwise holding the value on deposit for the payee (including in a virtual asset wallet) at or through a permanent establishment of the beneficiary institution in the country.

# EXPOSURE DRAFT

Reporting **Part 8**  
Suspicious matter reports [to be drafted] **Division 1**

Section 60

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## **Part 8—Reporting**

### **Division 1—Suspicious matter reports [to be drafted]**

# EXPOSURE DRAFT

**Part 8** Reporting

**Division 2** Threshold transaction reports [to be drafted]

Section 60

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**Division 2—Threshold transaction reports [to be drafted]**

# EXPOSURE DRAFT

Reporting **Part 8**  
International value transfer reports [to be drafted] **Division 3**

Section 60

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## **Division 3—International value transfer reports [to be drafted]**

# EXPOSURE DRAFT

**Part 8** Reporting

**Division 4** AML/CTF compliance reports

Section 61

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## **Division 4—AML/CTF compliance reports**

### **61 Reporting and lodgement periods for AML/CTF compliance reports**

For the purposes of section 47 of the Act:

- (a) each calendar year is a reporting period; and
- (b) the period of 3 months beginning at the end of each reporting period is the lodgement period for that reporting period.



## **Division 5—Registered remittance affiliates**

### **62 Reporting obligations of registered remittance affiliates**

- (1) This section is made for the purposes of section 49A of the Act.

*Reports of suspicious matters*

- (2) An obligation imposed by subsection 41(2) of the Act (which deals with reports of suspicious matters) upon a registered remittance affiliate of a registered remittance network provider to give a report may be discharged by the network provider if there is a written agreement between the affiliate and the network provider that provides for the network provider to do so.

*Reports of threshold transactions or international funds transfer instructions*

- (3) An obligation imposed by subsection 43(2) (which deals with reports of threshold transaction) or 45(2) (which deals with reports of international funds transfer instructions) of the Act upon a registered remittance affiliate of a registered remittance network provider to give a report is taken instead to be an obligation imposed on the network provider.

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## Part 8 Reporting

### Division 6 Cross-border movement reports

#### Section 63

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## Division 6—Cross-border movement reports

### 63 Purpose of this Division

This Division is made for the purposes of the following provisions of the Act:

- (a) paragraph 53(7)(b);
- (b) paragraph 53(7)(d);
- (c) paragraph 54(4)(b);
- (d) paragraph 61(1)(b);
- (e) paragraph 61(2)(b).

### 64 Reports about moving monetary instruments into or out of Australia

- (1) If a person moves a monetary instrument into or out of Australia, a report under section 53 of the Act (reports about movements of monetary instruments into or out of Australia) must:
  - (a) contain the information specified in subsection (2) (to the extent the information is known); and
  - (b) be given in accordance with the applicable timing rule specified in subsection (3).

Note: The report must also be given in the approved form (see paragraph 53(7)(a) of the Act).

- (2) For the purposes of paragraph (1)(a), the information is as follows:
  - (a) if the person is an individual:
    - (i) the person's full name; and
    - (ii) the person's date and place of birth; and
    - (iii) the country or countries of which the person is a citizen; and
    - (iv) the person's residential address; and
    - (v) the person's telephone number; and
    - (vi) whether the person is an Australian resident; and
    - (vii) if the person is bringing the monetary instrument into Australia and is not an Australian resident—the person's address and telephone number while in Australia; and
    - (viii) the person's occupation, business or principal activity; and
    - (ix) the person's ABN (if any);
  - (b) if the person is not an individual:
    - (i) the person's full name; and
    - (ii) the person's business or principal activity; and
    - (iii) the address at which the person's business or principal activity is conducted; and
    - (iv) the person's telephone number; and
    - (v) if the person is registered in Australia—the person's ABN, ACN and ARBN (as applicable);
  - (c) if the person is moving the monetary instrument on behalf of another person (the *other person*)—the following details of the other person:

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- (i) if the other person is an individual—the details mentioned in subparagraphs (a)(i), (iv), (v), (viii) and (ix);
- (ii) if the other person is not an individual—the details mentioned in subparagraphs (b)(i) to (v);
- (d) if the person is delivering the monetary instrument to another person (the **other person**)—the following details of the other person:
  - (i) if the other person is an individual—the details mentioned in subparagraphs (a)(i), (iv), (v), (viii) and (ix);
  - (ii) if the other person is not an individual—the details mentioned in subparagraphs (b)(i) to (v);
- (e) whether the monetary instrument is being moved into or out of Australia;
- (f) the kind of monetary instrument being moved into or out of Australia;
- (g) the monetary instrument amount being moved into or out of Australia;
- (h) the currency of the monetary instrument being moved into or out of Australia;
- (i) if the monetary instrument is a bearer negotiable instrument:
  - (i) the issuer or drawer of the monetary instrument; and
  - (ii) the payee, favouree or beneficiary of the monetary instrument; and
  - (iii) the name of the bearer of the monetary instrument; and
  - (iv) the city and country of issue of the monetary instrument; and
  - (v) any reference numbers of the monetary instrument;
- (j) if the person is an individual and is bringing the monetary instrument into Australia or taking the instrument out of Australia:
  - (i) whether the person is travelling into or out of Australia; and
  - (ii) the town or city at which the person is entering or leaving Australia; and
  - (iii) the person's date of arrival in or departure from Australia; and
  - (iv) the number and country of issue of the passport on which the person is travelling; and
  - (v) where practicable—the number of each other passport held by the person and the country of issue for each passport; and
  - (vi) the number of the flight or name of the vessel on which the person is bringing in or taking out the instrument; and
  - (vii) if the person is taking the monetary instrument out of Australia—the city and country to which the monetary instrument is being taken; and
  - (viii) if the person is bringing the monetary instrument into Australia—the city and country from which the monetary instrument is being brought;
- (k) if the monetary instrument is being sent into or out of Australia:
  - (i) the means by which the monetary instrument is being sent; and
  - (ii) the name, address and telephone number of the individual or service provider carrying the monetary instrument into or out of Australia; and
  - (iii) if the monetary instrument is to be shipped—the name of the vessel on which it is to be shipped; and

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## Part 8 Reporting

### Division 6 Cross-border movement reports

#### Section 65

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- (iv) the city and country from which the monetary instrument is being sent; and
  - (v) the city and country to which the monetary instrument is being sent; and
  - (vi) the date the monetary instrument is being sent;
  - (l) if the monetary instrument is being sent into or out of Australia—the following details of the person to whom the monetary instrument is being sent:
    - (i) the person's full name;
    - (ii) the person's telephone number;
    - (iii) if the person is an individual—the person's residential address;
    - (iv) if the person is not an individual—the address at which the person's business or principal activity is conducted;
    - (v) if the person is not an individual and is registered in Australia—the person's ABN, ACN and ARBN (as applicable);
  - (m) a declaration that the information provided in the approved form is true, accurate and complete.
- (3) For the purposes of paragraph (1)(b):
- (a) if the person moves a monetary instrument into Australia by bringing the instrument into Australia—the report must be given:
    - (i) no later than when the person reaches the place at which customs officers examine baggage; or
    - (ii) if there is no such place, at the first opportunity that the person has to give the report after arrival in Australia; and
  - (b) if the person moves a monetary instrument into Australia by sending the instrument into Australia—the report must be given before the movement of the instrument takes place; and
  - (c) if the person moves a monetary instrument out of Australia by taking the instrument out of Australia—the report must be given:
    - (i) no later than when the person reaches the customs officer who is to examine the person's passport in relation to the person leaving Australia; or
    - (ii) if there is no such examination, at any time before the last opportunity that the person has to give the report before leaving Australia; and
  - (d) if the person (the *first person*) moves a monetary instrument out of Australia by sending the instrument out of Australia by consignment, either through the post to a place outside Australia or to another person for carriage to a place outside Australia—the report must be given before the time when the instrument is irrevocably committed by the first person to a postal service or to the other person (as the case may be).

#### 65 Reports about receiving monetary instruments moved into Australia

If a person receives a monetary instrument moved into Australia, a report under section 54 of the Act (reports about receipts of monetary instruments moved into Australia) must contain the following information (to the extent the information is known):

# EXPOSURE DRAFT

- (a) if the person is an individual—the details mentioned in subparagraphs 64(2)(a)(i) to (ix);
- (b) if the person is not an individual—the details mentioned in subparagraphs 64(2)(b)(i) to (v);
- (c) if the person received the monetary instrument on behalf of another person (the *other person*)—the following details of the other person:
  - (i) if the other person is an individual—the details mentioned in subparagraphs 64(2)(a)(i), (iv), (v), (viii) and (ix);
  - (ii) if the other person is not an individual—the details mentioned in subparagraphs 64(2)(b)(i) to (v);
- (d) if the person is delivering the monetary instrument to another person (the *other person*)—the following details of the other person:
  - (i) if the other person is an individual—the details mentioned in subparagraphs 64(2)(a)(i), (iv), (v), (viii) and (ix);
  - (ii) if the other person is not an individual—the details mentioned in subparagraphs 64(2)(b)(i) to (v);
- (e) the kind of monetary instrument moved into Australia;
- (f) the monetary instrument amount moved into Australia;
- (g) the currency of the monetary instrument;
- (h) if the monetary instrument is a bearer negotiable instrument:
  - (i) the issuer or drawer of the monetary instrument; and
  - (ii) the payee, favouree or beneficiary of the monetary instrument; and
  - (iii) the name of the bearer of the monetary instrument; and
  - (iv) the city and country of issue of the monetary instrument; and
  - (v) any reference numbers of the monetary instrument;
- (i) the means by which the monetary instrument was moved into Australia;
- (j) the name of the individual or service provider who moved the monetary instrument into Australia;
- (k) if the monetary instrument was sent into Australia—the following details of the person who sent the monetary instrument (the *sender*) to the person:
  - (i) the sender's full name;
  - (ii) the sender's telephone number;
  - (iii) if the sender is an individual—the sender's residential address;
  - (iv) if the sender is not an individual—the address at which the sender's business or principal activity is conducted;
  - (v) if the sender is not an individual and is registered in Australia—the sender's ABN, ACN and ARBN (as applicable);
- (l) the city and country from which the monetary instrument was moved;
- (m) the city, town or port in which the monetary instrument was received by the person;
- (n) the date the monetary instrument was received by the person;
- (o) a declaration that the information provided in the approved form is true, accurate and complete.

Note: The report must be given in the approved form before the end of 5 business days beginning on the day of receipt (see paragraphs 54(4)(a) and (d) of the Act).

# EXPOSURE DRAFT

## Part 8 Reporting

### Division 6 Cross-border movement reports

#### Section 66

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#### **66 Affixing of notices about cross-border movement reporting obligations**

- (1) This section applies to a written notice that relates to reporting obligations under Part 4 of the Act (reports about cross-border movements of monetary instruments).
- (2) The written notice:
  - (a) must be in one of the following forms:
    - (i) a self-standing sign;
    - (ii) a digital or electronic sign;
    - (iii) a sign in any other material form; and
  - (b) must contain the following content (with or without the inclusion of any other words):

Australian Government  
Australian Transaction Reports and Analysis Centre  
Carrying \$10,000 or more into or out of Australia?  
You must report: cash, traveller's cheques, cheques, money orders, or other bearer negotiable instruments

These are monetary instruments. By law you must report the movement of monetary instruments if the sum of the monetary instrument amount is AUD\$10,000 or more (or foreign currency equivalent). Note there is no limit to the sum of monetary instruments amounts you can carry in and out of Australia.
- (3) The written notice may be affixed at:
  - (a) any port, airport, wharf, or boarding station that is appointed under section 15 of the *Customs Act 1901*; or
  - (b) a place to which section 234AA of the *Customs Act 1901* applies that is not a place, or a part of a place, referred to in paragraph (a).

# EXPOSURE DRAFT

Record-keeping [to be drafted] **Part 9**

Section 66

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## **Part 9—Record-keeping [to be drafted]**

# EXPOSURE DRAFT

## Part 10 Secrecy and access

### Section 67

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## Part 10—Secrecy and access

### 67 Disclosure of AUSTRAC information to foreign countries or agencies

For the purposes of paragraph 127(2)(a) of the Act, the following Commonwealth, State or Territory agencies are prescribed:

- (a) the Department;
- (b) the Foreign Affairs Department;
- (c) the Home Affairs Department;
- (d) that part of the Defence Department known as the Australian Geospatial-Intelligence Organisation, and includes any part of the Defence Force that performs functions on behalf of that part of the Department;
- (e) that part of the Defence Department known as the Defence Intelligence Organisation, and includes any part of the Defence Force that performs functions on behalf of that part of the Department;
- (f) the Australian Crime Commission;
- (g) the Australian Federal Police;
- (h) the Australian Prudential Regulation Authority;
- (i) the Australian Secret Intelligence Service;
- (j) the Australian Securities and Investments Commission;
- (k) the Australian Security Intelligence Organisation;
- (l) the Australian Signals Directorate;
- (m) the Australian Taxation Office;
- (n) the National Anti-Corruption Commission;
- (o) the Office of National Intelligence.



## Part 11—Other matters

### 68 Discharge of obligations by members of a reporting group

- (1) For the purposes of paragraph 236B(5)(c) of the Act, this section specifies conditions that apply when the member of the reporting group (the ***discharging member***) that is to discharge an obligation of a reporting is not itself a reporting entity.
- (2) The discharging member must have undertaken due diligence, in relation to persons who are employed or otherwise engaged and who perform functions relevant to discharging the obligation, that is equivalent to the due diligence required by the AML/CTF policies of the reporting entity.
- (3) The discharging member must have provided training to those persons, in relation to the topics mentioned in paragraph 26F(4)(e) of the Act, that is equivalent to the training required by the AML/CTF policies of the reporting entity.

# EXPOSURE DRAFT

**Part 12** Application, saving and transitional provisions [to be drafted]

Section 68

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**Part 12—Application, saving and transitional provisions [to be drafted]**

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## Schedule 1—Forms

Note: See sections 46 to 49.

### Form 1—Keep open notice

#### KEEP OPEN NOTICE

Subsection 39B(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

#### Explanation of this notice

- 1 This keep open notice (Notice) is issued pursuant to subsection 39B(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
- 2 A senior member of the kind listed in subsection 39B(3) of the AML/CTF Act reasonably believes that the provision of a designated service by the reporting entity to whom this Notice is issued to the customer(s) specified in this Notice would assist in the investigation by the agency of a serious offence.
- 3 Pursuant to subsection 39A(2) of the AML/CTF Act, the reporting entity is exempt from section 26G, 28 or 30 of the AML/CTF Act in respect of the provision of a designated service to a customer specified in this Notice to the extent that the reporting entity reasonably believes that compliance with that section would or could reasonably be expected to alert the customer to the existence of a criminal investigation.
- 4 If the exemption referred to in paragraph 3 applies in relation to the provision by the reporting entity of a designated service to the customer, section 139 of the AML/CTF Act (providing a designated service using a false customer name or customer anonymity) does not apply in relation to the provision by the reporting entity of that designated service to the customer.
- 5 This Notice remains in force for the period starting on the commencement date specified in this Notice (Commencement Date) and ending on the earlier of the following:
  - (a) the day that is 6 months after the Commencement Date;
  - (b) the day that the agency that issued the Notice notifies the reporting entity and the AUSTRAC CEO that the relevant investigation has ended.
- 6 The AUSTRAC CEO has been sent a copy of this Notice.
- 7 This Notice does not compel a reporting entity to provide a designated service to the customer specified in this Notice.
- 8 A suspicious matter reporting obligation does not arise for a reporting entity in relation to a customer upon the receipt of this Notice. However, a suspicious matter reporting obligation may otherwise arise for the reporting entity in relation to the customer in accordance with section 41 of the AML/CTF Act.

**Full name of reporting entity to whom this Notice is issued**

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**Commencement date of this Notice**

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# EXPOSURE DRAFT

Schedule 1 Forms

Form 1 Keep open notice

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### Details of the customer(s) to whom this Notice applies

Full name of customer(s)	Date of birth or Australian Business Number/Australian Company Number (if known)

### Additional details of customer(s) to whom this Notice applies (if known)

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### Do any attachments accompany this Notice?

No

Yes

Number of attachments

### Details of senior member

Full name	
Position	
Agency	

### Declaration

I am the senior member specified above and reasonably believe that the provision of a designated service by the reporting entity to the customer(s) specified in this Notice would assist in the investigation by the agency of a serious offence.

Signed

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Date

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## Form 2—Extension notice

### KEEP OPEN NOTICE—EXTENSION NOTICE

Subsection 39B(7) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

#### Explanation of this notice

- 1 This extension notice is issued pursuant to subsection 39B(7) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
- 2 This extension notice extends the period that a keep open notice remains in force for a further period of 6 months.
- 3 This extension notice must be issued to the reporting entity to whom the keep open notice was issued before the expiry of the keep open notice.
- 4 A senior member of the kind listed in subsection 39B(3) of the AML/CTF Act reasonably believes that the continued provision of a designated service by the reporting entity to the customer(s) specified in the keep open notice would assist in the investigation by the agency of a serious offence.
- 5 Pursuant to subsection 39A(2) of the AML/CTF Act, the reporting entity continues to be exempt from section 26G, 28 or 30 of the AML/CTF Act in respect of the continued provision of a designated service to a customer specified in the keep open notice to the extent that the reporting entity reasonably believes that compliance with that section would or could reasonably be expected to alert the customer to the existence of a criminal investigation.
- 6 If the exemption referred to in paragraph 5 applies in relation to the continued provision by the reporting entity of a designated service to the customer, section 139 of the AML/CTF Act (providing a designated service using a false customer name or customer anonymity) does not apply in relation to the continued provision by the reporting entity of that designated service to the customer.
- 7 The AUSTRAC CEO has been sent a copy of this extension notice.
- 8 This extension notice does not compel the reporting entity to continue to provide a designated service to a customer specified in this extension notice
- 9 A suspicious matter reporting obligation does not arise for a reporting entity in relation to a customer upon the receipt of this extension notice. However, a suspicious matter reporting obligation may otherwise arise for the reporting entity in relation to the customer in accordance with section 41 of the AML/CTF Act.
- 10 The period for which the keep open notice remains in force may be extended for a further period of 6 months if a senior member of the issuing agency issues an extension notice under subsection 39B(7) of the AML/CTF Act.

**Full name of reporting entity to whom the keep open notice was issued**

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**Commencement date of the keep open notice**

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# EXPOSURE DRAFT

Schedule 1 Forms

Form 2 Extension notice

## Commencement date of the extension period

*[State the date that is 6 months after the commencement date of the keep open notice or the commencement date of the previous extension period (as applicable)]*

## Details of the customer(s) to whom the keep open notice applies

*[List all customers included in the keep open notice]*

Full name of customer(s)	Date of birth or Australian Business Number/Australian Company Number (if known)

## Previous extension notices (if any) issued in relation to the keep open notice

Have any extension notices previously been issued in relation to the keep open notice?

How many extension notices have been issued prior to this extension notice?

## Details of senior member

Full name	
Position	
Agency	

## Declaration

**I am the senior member specified above and reasonably believe that the continued provision of a designated service by the reporting entity to the customer(s) specified in this extension notice would assist in the investigation by the agency of a serious offence.**

Signed

Date

# EXPOSURE DRAFT

Forms Schedule 1

Application to issue extension notice **Form 3**

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## Form 3—Application to issue extension notice

### APPLICATION TO ISSUE EXTENSION NOTICE TO FURTHER EXTEND THE PERIOD OF A KEEP OPEN NOTICE

Paragraph 39B(8)(b) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

This is the prescribed form for an application to the AUSTRAC CEO under paragraph 39B(8)(b) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the AML/CTF Act) to disapply paragraph 39B(7)(b) of that Act for the purpose of issuing a further extension notice in relation to a keep open notice.

Full name of reporting entity to whom the keep open notice was issued	

Commencement date of the keep open notice	

Previous extension notices issued under subsection 39B(7) of the AML/CTF Act	
How many extension notices have been issued in relation to the keep open notice prior to this application?	

Previous applications to the AUSTRAC CEO	
How many notices have been given by the AUSTRAC CEO under paragraph 39B(8)(d) of the AML/CTF Act in relation to the keep open notice?	

Details of the customer(s) to whom the keep open notice applies	
<i>List all customers included in the keep open notice</i>	
Full name of customer(s)	Date of birth or Australian Business Number/Australian Company Number (if known)

Reasons for application	
Reasons a further extension of the keep open notice is required	

# EXPOSURE DRAFT

Schedule 1 Forms

Form 3 Application to issue extension notice

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<b>Serious offence under investigation by the agency</b>	

<b>Details of senior member</b>	
Full name	
Position	
Agency	

## **Declaration**

**I am the senior member specified above and I reasonably believe that the continued provision of a designated service by the reporting entity to the customer(s) specified in the keep open notice would assist in the continued investigation by the agency of the serious offence(s) described in this application.**

Signed

Date