

Interpretation

“2. (1) In these Regulations, unless the contrary intention appears: **‘aborigine’** means a person who is:

- (a) a member of the Aboriginal race of Australia; or
- (b) a Torres Strait Islander;

‘census population’, in relation to an urban centre, means the population of that urban centre specified in the results of the Census of Population and Housing taken by the Australian Statistician on 30 June 1981, being the results published by the Australian Bureau of Statistics in the documents entitled “Persons and Dwellings in Local Government Areas and Urban Centres”;

‘child’ means a person who has not attained the age of 16;

‘financial body’ means:

- (a) a financial institution; or
- (b) a corporation that is a registered corporation within the meaning of the *Financial Corporations Act 1974*;

‘higher education institution’ means:

- (a) each educational institution that is referred to in the *Higher Education Funding Act 1988*; and
- (b) the Marcus Oldham College of Farm Management;

‘isolated area’ means a place situated at a distance of not less than 100 kilometres from the centre point of the nearest urban centre with a census population of not less than 2,500;

‘known customer’, in relation to a financial body as at a particular time, means a natural person who has been a signatory of an account with the financial body for not less than 12 months immediately preceding that time;

‘law’ means a law of the Commonwealth, a State or a Territory;

‘principal executive officer’ has the same meaning that it has in subsection 8A (8) of the Act;

‘public authority’ means an authority of the Commonwealth, a State, the Australian Capital Territory, the Northern Territory or the Territory of Norfolk Island;

‘public company’ has the same meaning that it has in the *Corporations Act 1989*;

‘public employee’ has the meaning given in regulation 11;

‘public utility’ means an authority or enterprise the primary business of which is to provide electricity, water or gas to the public for domestic or business purposes;

‘rating authority’ means:

- (a) a municipal or shire council; or
- (b) in the case of land in the Australian Capital Territory—the Australian Capital Territory;

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'technical and further education institution' has the same meaning that it has in the Student Assistance Regulations;

'Telecom' means the Australian Telecommunications Corporation;

'telephone service' means a telephone connected to the national telephone system operated by Telecom;

'tertiary education institution' means a higher education institution or a technical and further education institution;

'Torres Strait Islander' means a descendant of an indigenous inhabitant of the Torres Strait Islands;

'the Act' means the *Cash Transaction Reports Act 1988*;

'urban centre' means an area that is described as an urban centre or bounded locality in the results of the Census of Population and Housing taken by the Australian Statistician on 30 June 1981, being the results published by the Bureau of Statistics in the documents entitled "Persons and Dwellings in Local Government Areas and Urban Centres";

'verified signatory' means a signatory who has been identified by means of:

- (a) an identification reference in accordance with section 21 of the Act; or
- (b) the checks mentioned in regulation 4.

"(2) In these Regulations, a reference to a public company includes:

- (a) a body corporate that is a subsidiary of the company within the meaning of sections 46 to 49 (inclusive) of the *Corporations Act 1989*; and
- (b) a proprietary company within the meaning of that Act in which one or more shares is owned by a public company within the meaning of that Act."

3. New regulations 3 to 11

3.1 After regulation 2, insert:

The verification procedure

"3. (1) For the purposes of subsection 20 (8) of the Act, the verification procedure consists of:

- (a) the checks mentioned in regulation 4; and
- (b) in relation to a signatory mentioned in regulation 5, 6, 7, 8 or 9—the alternative check mentioned in that regulation.

"(2) The signatory is taken to be identified if the signatory rates at least 100 points.

"(3) The points attributable to:

- (a) a type of source mentioned in a subparagraph of paragraph 4 (1) (a), (b) or (c); or
- (b) a telephone service mentioned in paragraph 4 (1) (d); or

- (c) a document mentioned in paragraph 4 (1) (e); or
- (d) a reference mentioned in a subparagraph of paragraph 4 (1) (j);
may only be counted once in relation to a signatory to an account.

EXAMPLE

P has been identified by his or her current employer under subparagraph 4 (1) (a) (i) for the purposes of opening, or becoming a signatory to, an account and that identification is worth 35 points. But P cannot rely on identification by a former employer to gain a further 35 points in relation to the same account. Similarly, if P has been identified by his or her former employer in relation to an account, P could not also be identified by his or her current employer in relation to the same account. The fact that subregulation 3 (3) only allows the points for identification under a subparagraph of paragraph 4 (1) (a) to be counted once does not, of course, prevent P from relying on identification under *another* subparagraph of paragraph 4 (1) (a) or identification under another paragraph of subregulation 4 (1).

“(4) The points attributable to a document mentioned in paragraph 4 (1) (g) issued from a particular source may only be counted once in relation to a signatory to an account.

“(5) The fact that 2 or more bodies corporate are related to one another within the meaning of section 50 of the *Corporations Act 1989* does not affect their identity as distinct sources.

EXAMPLE

P has been issued with a Mastercard and a Visa Card by his or her bank. Either is worth 25 points under paragraph 4 (1) (g), but because they have been issued by the same bank, P may only use one of them for the purposes of opening, or becoming a signatory to, an account. Another bank has issued P with a Bankcard and P also holds a credit card issued by a finance company that is a wholly owned subsidiary of one of the banks. For the purpose of identifying P therefore the Bankcard and the credit card may also be taken into account giving a total of 75 points.

Verification generally

“(4) (1) The checks that may be made in relation to any signatory are as follows:

- (a) the identifying cash dealer verifies the name and address of the signatory from one or more of the following sources (each verification being worth 35 points):
 - (i) the employer of the signatory, or a person who was an employer of the signatory within the last 2 years, from records held by the employer or previous employer; or

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- (ii) a rating authority, from its records relating to land ownership or occupation; or
 - (iii) a document held by the cash dealer conferring an interest by way of security over property of the signatory; or
 - (iv) a financial body, other than the cash dealer, from its records relating to a mortgage or other instrument of security granted by the signatory to that body; or
 - (v) subject to the *Privacy Act 1988*—the Credit Reference Association of Australia from its records; or
 - (vi) records held under a law relating to land titles; and
- (b) the identifying cash dealer verifies the name and address of the signatory from one or more of the following sources (each verification being worth 25 points):
- (i) the electoral roll compiled by the Australian Electoral Office and available for public scrutiny; or
 - (ii) an acceptable referee nominated by the signatory; or
 - (iii) if the signatory lives or carries on business in rented accommodation—the owner or landlord of the premises or a real estate agent acting as managing agent of the premises; or
 - (iv) a public utility, from its records; or
 - (v) if the signatory is a known customer of another financial body—that body, from its records; or
 - (vi) a record held under a law other than a law relating to land titles; and
- (c) the identifying cash dealer verifies the name and date of birth of the signatory from one or both of the following sources (each verification being worth 25 points):
- (i) if the signatory has attended a primary, secondary or tertiary education institution within the last 10 years—that institution, from its records; or
 - (ii) if the signatory is a member of a professional or trade association—that association, from its records; and
- (d) the identifying cash dealer verifies the name, address and telephone number of the signatory:
- (i) by reference to the latest telephone directory published by Telecom or by advice provided by Telecom; and
 - (ii) by telephone contact with the signatory on that telephone service;
- (verification by this means is worth 25 points); and
- (e) the identifying cash dealer verifies the name of the signatory from a primary identification document relating to the signatory

produced to the identifying cash dealer (verification by this means is worth 70 points); and

- (f) the identifying cash dealer verifies the name of the signatory from a secondary identification document relating to the signatory produced to the identifying cash dealer and the document:
 - (i) contains a photograph or the signature of the signatory; and
 - (ii) is:
 - (A) an identification card issued to a public employee; or
 - (B) a licence issued under a law; or
 - (C) an identification card issued to a person by the Commonwealth, a State or Territory as evidence of the person's entitlement to a financial benefit; or
 - (D) an identification card issued to a student at a tertiary education institution;
- (verification by this means is worth 40 points); and
- (g) the identifying cash dealer verifies the name of the signatory from any other secondary identification document relating to the signatory produced to the identifying cash dealer (verification by this means is worth 25 points); and
 - (h) the identifying cash dealer, being a financial body, verifies that the signatory is a known customer (verification by this means is worth 40 points); and
 - (j) the identifying cash dealer verifies the name of the signatory from a reference produced to the identifying cash dealer being:
 - (i) a written reference from a financial body relating to the signatory:
 - (A) certifying that the signatory is a known customer; and
 - (B) bearing the signature of the signatory; or
 - (ii) a written reference from an acceptable referee:
 - (A) certifying that the referee has known the signatory by that name for at least 12 months; and
 - (B) bearing the signature of the signatory; or
 - (iii) a written reference from a verified signatory:
 - (A) certifying that the verified signatory has known the signatory for at least 12 months; and
 - (B) bearing the signatures of the signatory and the verified signatory;
- (verification by this means is worth 40 points).

“(2) The cash dealer must retain or copy each of the documents produced for the purposes of paragraph (1)(c),(f),(g) or (j) or record for each of those documents the particulars mentioned in regulation 10.

Verification: public authorities and public companies

“5. (1) A public authority or public company may notify an identifying cash dealer of the nomination of a person to be the verifying officer or a verifying officer of the authority or company in respect of an account.

“(2) The nomination must be signed by the principal executive officer or by the person responsible for administration of the account.

“(3) If an identifying cash dealer is notified that a person has been nominated as a verifying officer and the nominated person is not a verified signatory, the identifying cash dealer must, as soon as practicable, seek to identify the person by means of:

- (a) an identification reference for the person in accordance with section 21 of the Act; or
- (b) the checks mentioned in regulation 4.

“(4) If a public authority or public company revokes a nomination or a verifying officer ceases to be employed by a public authority or public company, it must notify the identifying cash dealer of that fact as soon as practicable.

“(5) A signatory of an account of a public authority or public company is also taken to be identified if a certificate of identity by the verifying officer, or a verifying officer, for that account is lodged with an identifying cash dealer and the certificate:

- (a) says that the officer is satisfied that the signatory is authorised by the authority or company to be a signatory to that account; and
- (b) bears the signatures of the officer and the signatory.

“(6) Verification of the identity of a signatory under subregulation (5) is worth 100 points.

Verification: children

“6. (1) A child who is a signatory of an account is also taken to be identified if there is produced to the identifying cash dealer:

- (a) a primary identification document relating to the child; or
- (b) a statement issued on behalf of an educational institution attended by the child:
 - (i) being a statement:
 - (A) written on the letterhead of the institution or educational system to which the institution belongs; or

- (B) incorporated in a list of names written on the letterhead of a financial institution and bearing the stamp or seal of the educational institution; and
- (ii) specifying the name of the child; and
- (iii) confirming that the child attends the institution; and
- (iv) signed by the principal, head teacher or chief administrator of the educational institution.

“(2) The identifying cash dealer must copy each of the documents produced or record for each of those documents the particulars mentioned in regulation 10.

“(3) Verification of the identity of a signatory under subregulation (1) is worth 100 points.

Verification: recent arrivals in Australia

“7. (1) In this regulation:

‘passport’:

(a) includes:

- (i) a document of identity issued to a person from official sources for the purpose of travel; and
 - (ii) a passport which has expired within the last 2 years; and
- (b) does not include a passport which has been cancelled.

“(2) A person who is a signatory of an account is also taken to be identified if:

- (a) the person is not a resident of Australia; and
- (b) the person produces his or her passport to the identifying cash dealer; and
- (c) at the time of production of the passport the person has been in Australia for less than 6 weeks.

“(3) The identifying cash dealer must copy each of the documents produced or record for each of those documents the particulars mentioned in regulation 10.

“(4) Verification of the identify of a signatory under subregulation (2) is worth 100 points.

Verification: non-residents

“8. (1) In this regulation, a reference to the carrying on of business in Australia has the meaning given by section 21 of the *Corporations Act 1989*.

“(2) A financial body that carries on business in Australia may notify an identifying cash dealer of the nomination of a person resident overseas employed by it to be the foreign verifying officer or a foreign verifying officer of the financial body.

“(3) If an identifying cash dealer is notified that a person has been nominated as a foreign verifying officer and the nominated person is

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not a verified signatory, the cash dealer must, as soon as practicable, seek to identify the person by means of:

- (a) an identification reference for the person in accordance with section 21 of the Act; or
- (b) the checks mentioned in regulation 4.

“(4) If a financial body revokes a nomination or a foreign verifying officer ceases to be employed by a financial body, it must notify the identifying cash dealer of that fact as soon as practicable.

“(5) A person resident outside Australia who is a signatory of an account is also taken to be identified if a certificate of identity by the foreign verifying officer, or a foreign verifying officer, for that account is lodged with an identifying cash dealer and the certificate:

- (a) sets out the name and residential address of the signatory; and
- (b) says that the officer is satisfied:
 - (i) that the name is the name by which the signatory is known; and
 - (ii) that the signatory is authorised by the financial body to be a signatory to that account; and

(c) bears the signatures of the officer and the signatory.

“(6) Verification of the identity of a signatory under subregulation (5) is worth 100 points.

Verification: isolated area aborigines

“9. (1) In this regulation:

‘community leader’, in relation to an aboriginal community, means:

- (a) a person who is recognised by the members of the community to be a community elder; or
- (b) if there is an aboriginal council that represents the community—an elected member of the council.

“(2) The name of an aborigine ordinarily resident in an isolated area who is a signatory of an account may also be verified by a community leader of the community to which the signatory belongs.

“(3) Each verification of the name of a signatory under subregulation (2) is worth 50 points.

Particulars to be recorded

“10. (1) The particulars relating to a document referred to in subparagraph 4 (1) (a) (iii) or (iv), paragraph 4 (1) (e), (f) or (g) or subregulation 6 (2) or 7 (2) are:

- (a) the nature of the document; and
- (b) the name of the person to whom it relates; and
- (c) if the document contains information relating to the age or place of residence of the signatory—details of that information; and

- (d) the date, place of issue and any expiry date of the document:
and
- (e) any number allocated to the document by the authority which issued it.

“(2) Where an identification check is based on information provided by a person, the person making the check must record whichever of the following is relevant:

- (a) the name of the person providing the information; and
- (b) the designation, title or rank of that person; and
- (c) the name and address of any body or organisation with whom the person is associated where that association is relevant to the kind of information provided by the person; and
- (d) a note of the information provided by the person.

Public employee

“11. (1) In these Regulations, ‘**public employee**’ means a person employed by the Commonwealth, a State, the Australian Capital Territory, the Northern Territory or the Territory of Norfolk Island or by a public authority, whether the person is so employed under a law, or under a contract of service or apprenticeship.

“(2) Without limiting subregulation (1):

- (a) a member of the Parliament; or
- (b) a justice or judge of a court; or
- (c) a person (other than a person mentioned in subregulation (4)) who is the holder of an office established by a law;

of the Commonwealth, a State or Territory, is to be taken, for the purposes of these Regulations, to be employed by the Commonwealth, a State or Territory as the case may be.

“(3) Without limiting subregulation (1), a member of the Defence Force is to be taken, for the purposes of these Regulations, to be employed by the Commonwealth.

“(4) Without limiting subregulation (1), a person is to be taken, for the purposes of these Regulations, to be employed by a public authority if:

- (a) the person constitutes, or is a member of, the authority; or
- (b) where the authority is a body corporate—the person is a director of the body corporate.”.

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NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 1
2. Statutory Rules 1990 No. 36 as amended by 1990 No. 162/

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31 October/

and 340/