



Financial Transaction Reports Regulations 1990

Statutory Rules 1990 No. 36 as amended

made under the

Financial Transaction Reports Act 1988

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1 Name of Regulations [see Note 1]

These Regulations are the *Financial Transaction Reports Regulations 1990*.

2 Interpretation

(1) In these Regulations, unless the contrary intention appears:

Aboriginal person means a person who is a member of the Aboriginal race of Australia.

beneficiary customer, in relation to an instruction, means the person or organisation (including a financial organisation) designated by the ordering customer or ordering organisation as the ultimate recipient of the funds.

beneficiary organisation, in relation to an instruction, means the financial organisation designated by the ordering organisation as the ultimate recipient of the funds.

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 18.

customer transfer instruction means an instruction to transfer funds from an ordering customer to a beneficiary customer, in relation to which at least 1 of those customers is not a financial organisation.

disbursing organisation means:

- (a) in relation to a customer transfer instruction — the financial organisation at which a beneficiary customer is to be paid; and
- (b) in relation to a financial organisation transfer instruction — the financial organisation, other than the recipient, that is instructed to pay or credit the beneficiary organisation.

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*.

financial organisation means an organisation that transmits, receives, handles or executes instructions.

financial organisation transfer instruction means an instruction relating to the transfer of funds between an ordering organisation acting on its own behalf and a beneficiary organisation.

higher education institution means an institution listed in section 4 or paragraphs 34 (4) (b) to (j) (inclusive) of the *Higher Education Funding Act 1988*.

incorporated body means:

- (a) a public company within the meaning of the Corporations Law; or
- (b) a body corporate that is a subsidiary of a public company within the meaning of sections 46 to 49 (inclusive) of the Corporations Law; or
- (c) a proprietary company within the meaning of the Corporations Law in which one or more shares is owned by a public company within the meaning of the Corporations Law; or
- (d) a bank; or
- (e) a building society; or
- (f) a credit union; or
- (g) a society established under a law in force in a State or Territory providing for the establishment of mutual societies or friendly societies; or
- (h) a proprietary company within the meaning of the Corporations Law, or an incorporated association:
 - (i) that has traded for a continuous period of 2 years; or
 - (ii) that has maintained an account with a financial institution for a continuous period of 2 years; or
- (i) a body established or incorporated for a public purpose; or
- (j) a foreign company carrying on business in Australia within the meaning of the Corporations Law.

instruction means an international funds transfer instruction.

isolated area means a place situated at a distance of not less than 20 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.

local government body means:

- (a) a municipal, city, town, district or shire council; or
- (b) a local governing body established by or under a law of a State, the Australian Capital Territory or the Northern Territory the sole or principal function of which is to provide a particular service, such as the supply of electricity or water.

location, in relation to an ordering customer or a beneficiary customer, means:

- (a) the customer's full business or residential address; or
- (b) if the full address cannot be obtained and provided after reasonable efforts — any of the following:
 - (i) the town or suburb at which the business is conducted or the residence is located;
 - (ii) the postcode of that town or suburb;
 - (iii) the telephone number of the customer's business or residence.

ordering customer means a person or organisation (including a financial organisation) on whose behalf an instruction is sent.

ordering organisation, in relation to an instruction, means the financial organisation:

- (a) that the ordering customer originally asked to send the instruction; or
- (b) that initiated the sending of the instruction on its own behalf.

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

public authority includes a rating authority.

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, sewerage or gas to the public for domestic or business purposes.

rating authority means:

- (a) a municipal, city, town, district or shire council; or
- (b) in the case of land in the Australian Capital Territory — the Australian Capital Territory.

recipient means the financial organisation to which an instruction is sent.

sender means the financial organisation that sends an instruction.

superannuation fund has the meaning given by subsection 10 (1) of the *Superannuation Industry (Supervision) Act 1993*.

technical and further education institution has the same meaning as in section 3 of the *Student Assistance Act 1973*.

Telstra has the meaning given by the *Telstra Corporation Act 1991*.

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 *Financial 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:

- (aa) a verification procedure referred to in subparagraph 20A (1) (b) (ii) of the Act; or
- (a) an identification reference in accordance with section 21 of the Act; or
- (b) the checks mentioned in regulation 4.

- (3) If the rules of a superannuation fund contain a provision the purpose of which is to avoid a breach of a rule of law relating to perpetuities, the provision does not prevent the fund from being treated as an indefinitely continuing fund for the purposes of the definition of *superannuation fund* in subregulation (1).

2A Application — bullion transaction

These Regulations apply to a bullion transaction that involves a significant cash transaction.

3 The verification procedure

- (1) For the purposes of subparagraph 20A (1) (b) (i) 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, 9 or 10A — the alternative check mentioned in that regulation.
- (1A) For paragraph 24C (2) (a) of the Act, the verification procedure for an identification record for a party to a bullion transaction consists of:
- (a) in the case of a company defined in regulation 5A — the procedure set out in that regulation; and
 - (b) in all other cases:
 - (i) the checks mentioned in regulation 4 and the alternative check mentioned in regulation 9; or
 - (ii) obtaining an identification reference.
- (1B) For subparagraph (1A) (b) (ii), an identification reference is obtained by the means set out in section 21 of the Act as if a reference to:
- (a) a signatory to an account were a reference to a party to a bullion transaction; and
 - (b) the signatory were a reference to the party; and
 - (c) the account were a reference to the bullion transaction.

- (2) The signatory or party to the bullion transaction is taken to be identified if the signatory or party to the bullion transaction 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) telephone contact mentioned in subparagraph 4 (1) (d) (ii);
 - (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 the signatory to an account or party to the bullion transaction.

Example

P has been identified by his or her current employer under subparagraph 4 (1) (a) (i) and that identification is worth 35 points. However, P cannot rely on identification by a former employer to gain a further 35 points for opening the same account or making the same bullion transaction. Similarly, if P has been identified by a former employer in relation to opening an account or making a bullion transaction, P cannot rely on identification by a current employer in relation to the same account or bullion transaction. The fact that subregulation 3 (3) only allows the points for identification under subparagraph 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 or party to the bullion transaction.
- (5) The fact that 2 or more bodies corporate are related to one another within the meaning of section 50 of the Corporations Law 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 identification purposes. 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.

4 Verification generally

- (1) The checks that may be made in relation to any signatory or party to a bullion transaction are as follows:
 - (a) the identifying cash dealer verifies the name and address of the signatory or party to a bullion transaction from one or more of the following sources (each verification being worth 35 points):
 - (i) the employer of the signatory or party to a bullion transaction, or a person who was an employer of the signatory or party to a bullion transaction within the last 2 years, from records held by the employer or previous employer; or
 - (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 party to a bullion transaction; 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 or party to a bullion transaction 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 or party to a bullion transaction 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) a nominee of the signatory or party to a bullion transaction who is an acceptable referee or who would, if he or she had known the signatory or party

- to a bullion transaction for at least 12 months, be an acceptable referee; or
- (iii) if the signatory or party to a bullion transaction 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 or party to a bullion transaction 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 or party to a bullion transaction from one or both of the following sources (each verification being worth 25 points):
- (i) if the signatory or party to a bullion transaction has attended a primary, secondary or tertiary education institution within the last 10 years — that institution, from its records; or
 - (ii) if the signatory or party to a bullion transaction 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 or party to a bullion transaction:
- (i) by reference to the latest telephone directory published by Telstra or by advice provided by Telstra; and
 - (ii) by telephone contact with the signatory or party to a bullion transaction on that telephone number;
- (verification by this means is worth 25 points); and
- (e) the identifying cash dealer verifies the name of the signatory or party to a bullion transaction from a primary identification document relating to the signatory or party to a bullion transaction 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 or party to a bullion transaction from a secondary identification document relating to the signatory or party to a bullion transaction produced to the identifying cash dealer and the document:
 - (i) contains a photograph or the signature of the signatory or party to a bullion transaction; and
 - (ii) is:
 - (A) an identification card issued to a public employee; or
 - (B) a licence or permit 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 or party to a bullion transaction from any other secondary identification document relating to the signatory or party to a bullion transaction 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 or party to a bullion transaction is a known customer (verification by this means is worth 40 points); and
- (i) if the identifying cash dealer is a financial body — it verifies that the signatory or party to the bullion transaction has been a signatory of an account with the body for at least 36 months immediately before the verification (verification by this means is worth 100 points); and
- (j) the identifying cash dealer verifies the name of the signatory or party to a bullion transaction from a reference produced to the identifying cash dealer being:
 - (i) a written reference from a financial body relating to the signatory or party to a bullion transaction:

- (A) certifying that the signatory or party to a bullion transaction is a known customer; and
 - (B) bearing the signatures of the signatory or party to a bullion transaction and an employee or agent of the financial body; or
 - (ii) a written reference from an acceptable referee:
 - (A) certifying that the referee has known the signatory or party to a bullion transaction by that name for at least 12 months; and
 - (B) bearing the signatures of the signatory or party to a bullion transaction and the acceptable referee; 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) (e), (f), (g) or (j) or record for each of those documents the particulars mentioned in regulation 10.

5 Verification: public authorities and incorporated bodies

- (1) A public authority or incorporated body 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 body in respect of an account, or of some or all accounts, of the authority or body with the identifying cash dealer.
- (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 (whether or not the person is, or is to be, a signatory to a relevant account) by means of:

- (aa) a verification procedure referred to in subparagraph 20A (1) (b) (ii) of the Act; or
 - (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 incorporated body revokes a nomination or a verifying officer ceases to be employed by a public authority or incorporated body, 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 incorporated body 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 body to be a signatory to that account; and
 - (b) bears the signatures of the officer and the signatory.
- (5A) A certificate of identity by a verifying officer may relate to more than one signatory of the account for which it is lodged.
- (6) Verification of the identity of a signatory under subregulation (5) is worth 100 points.

5A Verification: company party to a bullion transaction

- (1) This regulation applies if a bullion seller enters into a bullion transaction with a company.
- (2) Subject to subregulation (3), the bullion seller must obtain from the company:
 - (a) for a company having a certificate of registration under the Corporations Law — a copy of that certificate:
 - (i) issued by the Australian Securities Commission; or

- (ii) certified by a person under paragraph 8 (b) of the *Statutory Declarations Act 1959*; and
- (b) for a company not issued with a certificate of registration but having a certificate of incorporation — a copy of the certificate of incorporation certified by a person under paragraph 8 (b) of the *Statutory Declarations Act 1959*; and
- (c) the following information:
 - (i) its registration number allotted to it by the Australian Securities Commission;
 - (ii) the address of its registered office;
 - (iii) the address of its principal place of business; and
- (d) if the person who is conducting the bullion transaction on behalf of the company is an employee of the company — the following information about the person:
 - (i) the person's full name;
 - (ii) the position held by the person in the company; and
- (e) if the person who is conducting the bullion transaction on behalf of the company is not an employee of the company but has authority to act for it — the following information about the person:
 - (i) the person's full name and workplace address;
 - (ii) the person's relationship to the company;
 - (iii) the authority under which the person is conducting the bullion transaction;
 - (iv) the person's usual occupation.

Note Section 24D of the Act sets out the requirements for a bullion seller to keep records made or obtained about a party to a bullion transaction.

- (3) A bullion seller is taken to have complied with the requirements of paragraph 5A (2) (a) or (b) if:
 - (a) in the case of a company referred to in paragraph (2) (a) — the bullion seller has sighted the company's certificate of registration and has:
 - (i) made a copy of the certificate; and
 - (ii) endorsed it as a true copy; or

- (b) in the case of a company referred to in paragraph (2) (b) — the bullion seller has sighted the company's certificate of incorporation and has:
 - (i) made a copy of the certificate; and
 - (ii) endorsed it as a true copy; or
 - (c) the company holds an account with the bullion seller and the bullion seller has retained account information relating to the company.
- (4) If the bullion seller has obtained all relevant information from the company under subregulation (2), the company's identity is taken to have been verified.
- (5) Verification of the identity of the company under subregulation (4) is worth 100 points.
- (6) In this regulation:
- company** means a body registered or taken to be registered under Part 2.2 of the Corporations Law, or a body registered under Part 4.1 of the Corporations Law.

6 Verification: children

- (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; or
 - (C) contained in a student card issued by the institution that also bears the seal or stamp of the institution; and
 - (ii) specifying the name of the child; and

- (iii) confirming that the child attends the institution; and
 - (iv) signed by the principal, deputy principal, head teacher, deputy head teacher, enrolment officer, deputy enrolment officer, secretary, deputy secretary, chief administrator or deputy 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.

7 Verification: recent arrivals in Australia

- (2) A person who is a signatory of an account is also taken to be identified if:
- (a) immediately before the person most recently arrived in Australia, the person was not ordinarily resident in Australia; and
 - (b) the person produces his or her international travel document to the identifying cash dealer; and
 - (c) at the time of production of the international travel document the person has been in Australia for a period:
 - (i) that commences on the day on which the person most recently arrived in Australia, or on the first day since that arrival on which the person is lawfully at large in Australia, whichever is the later; and
 - (ii) the duration of which is 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 identity of a signatory under subregulation (2) is worth 100 points.

8 Verification: non-residents

- (1) In this regulation, a reference to the carrying on of business in Australia has the meaning given by section 21 of the Corporations Law.
- (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 not a verified signatory, the cash dealer must, as soon as practicable, seek to identify the person by means of:
 - (aa) a verification procedure referred to in subparagraph 20A (1) (b) (ii) of the Act; or
 - (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 a signatory of an account with the financial body.
 - (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.

- (7) A person resident outside Australia who is a signatory of an account is taken to be identified if:
- (a) the person produces to an employee of a bank who is authorised by the bank to open accounts with the bank:
 - (i) being a bank that carries on business outside Australia and is engaged in a transaction with an identifying cash dealer; and
 - (ii) whether or not the bank has an authority under section 9 of the *Banking Act 1959*;verification of the identity of the signatory using documents that are equivalent to documents worth a total of 100 points that are referred to in regulation 4; and
 - (b) the employee:
 - (i) signs a statement that he or she has seen the documents; and
 - (ii) attaches a copy of each of the documents to the statement or records the pertinent details of the documents in the statement.
- (8) A certificate of identity by an employee referred to in subregulation (7) may relate to more than one signatory of the account for which it is lodged.

9 Verification: Aboriginal persons or Torres Strait Islanders resident in an isolated area

- (1) In this regulation:
- community leader*, in relation to an Aboriginal or Torres Strait Islander 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; or
 - (c) a member of a Regional Council established under section 92 of the *Aboriginal and Torres Strait Islander Commission Act 1989*; or
 - (d) a member, or a member of the staff, of a local land council established under section 21 of the *Aboriginal Land Rights (Northern Territory) Act 1976*; or

- (e) a member of the staff of the Aboriginal and Torres Strait Islander Commission; or
 - (g) a director of an Aboriginal or Torres Strait Islander corporation within the meaning of the *Aboriginal and Torres Strait Islander Commission Act 1989*.
- (2) The name of an Aboriginal person or Torres Strait Islander ordinarily resident in an isolated area who is a signatory of an account or party to the bullion transaction may also be verified by a community leader of the community to which the signatory or party to the bullion transaction belongs.
- (3) Each verification of the name of a signatory or party to the bullion transaction under subregulation (2) is worth 50 points.

10 Particulars to be recorded

- (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 or party to the bullion transaction — 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.

10A Verification: certain recipients of social security benefits

- (1) The verification procedure for the purposes of subparagraph 20A (1) (b) (i) of the Act for an individual who:
 - (a) is unable to comply with the checks mentioned in regulation 4; and
 - (b) produces to the identifying cash dealer, not more than 3 months after the date on which it was issued, a letter of introduction from a Centrelink officer;
consists of the verification by that identifying cash dealer of the identity of the individual from that letter of introduction.
- (2) Verification of the identity of a signatory under subregulation (1) is worth 100 points.
- (3) In subregulation (1):

letter of introduction means a letter signed by the signatory and a Centrelink officer to the effect that:

 - (a) the signatory is the recipient of a social security payment; and
 - (b) the signatory's signature has been verified from agency records.

10B Verification: recipients of financial supplement

- (1) This regulation applies if:
 - (a) a person:
 - (i) applies to an identifying cash dealer for financial supplement under subsection 12D (1) of the *Student Assistance Act 1973*; and
 - (ii) has a document, issued by the Department of Education, Training and Youth Affairs, certifying that the person referred to in the document is eligible to apply for financial supplement under the Student Financial Supplement Scheme set out in Part 4A of that Act; and
 - (iii) gives the document to the cash dealer no later than 3 months after the day on which the document is issued; and

- (b) the cash dealer:
 - (i) has entered into an agreement with the Commonwealth for the purposes of subsection 12D (1) of that Act; and
 - (ii) accepts the person's application.
- (2) For the purposes of subparagraph 20A (1) (b) (i) of the Act, the verification procedure for the person is the verification by the identifying cash dealer of the person's identity from the document referred to in subparagraph (1) (a) (ii).
- (3) The verification of the person's identity is worth 100 points.

11 Public employee

- (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.

11AA Prescribed details in relation to an international funds transfer instruction

- (1) For the purposes of subsection 17B (2) of the Act, the prescribed details for a report of an instruction that is transmitted out of Australia are:
 - (a) the sender's name; and
 - (b) the recipient's name; and
 - (c) the date on which transmission of the instruction commenced; and
 - (d) the currency and the amount of funds referred to in the instruction; and
 - (e) the name or identity of the branch or department of the financial organisation to which the ordering customer gave the request to transmit the instruction; and
 - (f) for a financial organisation transfer instruction:
 - (i) the identity and account number (if any) of the beneficiary organisation; and
 - (ii) if the ordering organisation is not the sender — the identity of the ordering organisation; and
 - (g) for a customer transfer instruction — the ordering customer's name and location; and
 - (h) for a customer transfer instruction — such of the following as appear in the instruction:
 - (i) the number of the ordering customer's account with the ordering organisation;
 - (ii) the beneficiary customer's name and location;
 - (iii) the number of the beneficiary customer's account with the disbursing organisation; and
 - (j) such of the following as appear in the instruction:
 - (i) the identification code assigned to the instruction by the sender;
 - (ii) the date on which the funds referred to in the instruction become available for the recipient to disburse;
 - (iii) the identity of the ordering organisation;

- (iv) the account of the sender or another financial organisation through which the sender will reimburse the recipient;
 - (v) the branch of the recipient or another financial organisation at which the funds will be made available to the recipient;
 - (vi) the identity of the disbursing organisation;
 - (vii) information given in the instruction by the ordering customer to the beneficiary customer about the reason for payment;
 - (viii) information or directions provided by the sender, in the instruction, to a financial organisation, or a branch or department of a financial organisation;
 - (ix) the name or identity of the branch or department of a financial organisation; and
 - (k) if the dealer provides a copy of an instruction as the dealer's report — such other details as appear in the instruction as transmitted.
- (2) For the purposes of subsection 17B (2) of the Act, the prescribed details for a report of an instruction that is transmitted into Australia are:
- (a) the sender's name; and
 - (b) the recipient's name; and
 - (c) the date on which the recipient receives the instruction; and
 - (d) the currency and the amount of funds referred to in the instruction; and
 - (e) for a financial organisation transfer instruction:
 - (i) the identity and account number (if any) of the beneficiary organisation; and
 - (ii) if the ordering organisation is not the sender — the identity of the ordering organisation; and
 - (f) for a customer transfer instruction — such of the following as appear in the instruction:
 - (i) the ordering customer's name; and
 - (ii) the ordering customer's location; and

- (iii) the number of the ordering customer's account with the ordering organisation; and
- (iv) the beneficiary customer's name; and
- (v) the beneficiary customer's location; and
- (vi) the number of the beneficiary customer's account with the disbursing organisation; and
- (g) such of the following as appear in the instruction:
 - (i) the identification code assigned to the instruction by the sender; and
 - (ii) the date on which the funds referred to in the instruction become available for the recipient to disburse; and
 - (iii) the identity of the ordering organisation; and
 - (iv) the account of the sender or another financial organisation through which the sender will reimburse the recipient; and
 - (v) the branch of the recipient or another financial organisation at which the funds will be made available to the recipient; and
 - (vi) the identity of the disbursing organisation; and
 - (vii) information given in the instruction by the ordering customer to the beneficiary customer about the reason for payment; and
 - (viii) information or directions provided by the sender, in the instruction, to a financial organisation, or a branch or department of a financial organisation; and
 - (ix) the name or identity of a branch or department of a financial organisation; and
- (h) if the dealer provides a copy of an instruction as the dealer's report — such other details as appear in the instruction as transmitted.

11A Account information in relation to trust accounts

- (1) For the purposes of subparagraph (c) (v) of the definition of *account information* in subsection 3 (1) of the Act, the following information in relation to an account held in trust is prescribed:

- (a) the name and address of the trustee; and
 - (b) the name of each beneficiary under the trust; and
 - (c) if the terms of the trust identify the beneficiaries by reference only to membership of a class — details of the class.
- (2) A cash dealer who provides account information on an account held in trust is not required to provide the information set out in subregulation (1) if the account is:
- (a) held by, or operated in connection with, a superannuation fund; or
 - (b) held by:
 - (i) the Commonwealth, a State, the Australian Capital Territory, the Northern Territory or the Territory of Norfolk Island; or
 - (ii) a public authority; or
 - (iii) a local government body.

11B Period for the purposes of section 18 of the Act

- (3) For the purposes of subsection 18 (8) of the Act, the following particulars are prescribed:
- (a) the date on which the account became blocked;
 - (b) the account holder's name and address;
 - (c) if it is known to the cash dealer — the account holder's occupation, business or principal activity;
 - (d) the type and identification number of the account;
 - (e) the unverified signatory's name;
 - (f) if it is known to the cash dealer — the unverified signatory's address;
 - (g) the name of each other signatory (if any);
 - (h) if it is known to the cash dealer — the address of each other signatory (if any);
 - (i) the cash dealer's name and address;
 - (j) the nature of the cash dealer's business;
 - (k) the identifying number of the branch where the account is held;

- (l) the signature of the cash dealer, or an authorised officer of the dealer;
- (m) the name, title, telephone number and facsimile number of the cash dealer or person who signed on behalf of the cash dealer;
- (n) the total funds deposited in the account on and after the latest of the following dates:
 - (i) 1 February 1991;
 - (ii) the date the account was opened;
 - (iii) the date of the last notice under subsection 18 (8) of the Act relating to the account;
- (o) the total amount of cash deposited in the account since the latest of the dates referred to in paragraph (n);
- (p) the date of the last transaction on the account;
- (q) the reasons why the account was blocked, including statements indicating:
 - (i) whether the credit balance of the account has exceeded \$1,000;
 - (ii) whether the total credits to the account over a period of 30 consecutive days exceeded \$2,000;
- (r) the reason why the account remains blocked.

11C Prescribed persons for the purposes of subsection 21A (2) of the Act

For the purposes of subsection 21A (2) of the Act, a member of one of the following classes of persons is a prescribed person:

- (a) a police officer;
- (b) a Centrelink officer who performs the duties of a Customer Service Centre Manager;
- (c) a legal practitioner (however described) of a federal, State or Territory court;
- (d) a marriage counsellor within the meaning of the *Family Law Act 1975*;
- (e) a person registered as a medical practitioner under a law of a State or Territory providing for that registration;

- (f) a person who holds the position of nursing sister and is registered as a nurse under a law of a State or Territory providing for that registration;
- (g) a community leader within the meaning of subregulation 9 (1);
- (h) a marriage celebrant who is an authorised celebrant within the meaning of the *Marriage Act 1961*;
- (i) an employee of:
 - (i) a women's refuge; or
 - (ii) a crisis and counselling service;who counsels or otherwise assists victims of domestic violence, sexual assault or sexual abuse, as part of his or her duties.

11D Retention of documents — minimum amount of transaction for document retention provisions to apply

For subsections 40H (2) and 40J (2) of the Act, the amount is \$1 000.

12 Schedule 1 to the Act

Schedule 1 to the Act is amended by omitting all the words after 'SCHEDULE 1' and substituting the following:

Reportable details for purposes of section 7

Part A

The reportable details of a significant cash transaction, to which a cash dealer is a party, that:

- (a) must be included in a report made to the Director under paragraph 7 (3) (a); or
- (b) may be included in a report if the Director has approved, under paragraph 7 (3) (b), reporting by the dealer electronically;

are:

1. In relation to the cash dealer:
 - (a) the name, identifying number and business of the cash dealer; and
 - (b) the name and address of the branch of the cash dealer at which the transaction was conducted.

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2. The nature of the transaction.
3. The date of the transaction.
4. For each person conducting the transaction with the cash dealer:
 - (a) the name of the person; and
 - (b) the business or residential address of the person; and
 - (c) the occupation, business or principal activity of the person; and
 - (d) the date of birth of the person; and
 - (e) the signature of the person; and
 - (f) the method used by the cash dealer to verify the identity of the person; and
 - (g) whether the transaction was conducted on behalf of the person or on behalf of another person.
5. For any person on whose behalf the transaction was conducted:
 - (a) the name of the person; and
 - (b) the address of the person; and
 - (c) the occupation of the person (or, where appropriate, the business or principal activity of the person).
6. For any cheque or banker's draft involved in the transaction:
 - (a) the name of the drawer of the cheque or banker's draft; and
 - (b) the name of the payee, the favouree or the beneficiary of the cheque or banker's draft (if any); and
 - (c) the name and branch of the financial institution or foreign financial institution on which the cheque or banker's draft was drawn, and the country in which the branch is located.
7. For any transfer of currency, within a financial institution or from a financial institution or foreign financial institution to another financial institution or foreign financial institution, that forms part of the transaction:
 - (a) the name of the payee, the favouree or the beneficiary of the transfer (if any); and
 - (b) the name and branch of the financial institution or foreign financial institution involved in the transfer, and the country in which the branch is located.
8. For the purchase or sale of any security that forms part of the transaction:
 - (a) the name of the payee, the favouree or the beneficiary of the security (if any); and
 - (b) the name and branch of the financial institution or foreign financial institution involved in the purchase or sale, and the country in which the branch is located.
9. The type and identifying number of any account with a cash dealer that is affected by the transaction.
10. The total amount of currency involved in the transaction.

11. The total monetary amount of the transaction.
12. The foreign currency involved in the transaction (if any).

Part B

If:

- (a) the Director has approved, under paragraph 7 (3) (b), reporting by a cash dealer electronically; and
- (b) the cash dealer chooses to report the details referred to in this Part instead of the details referred to in Part A;

the reportable details of a significant cash transaction, to which the dealer is a party, that are to be included in the report, are:

1. In relation to the cash dealer:
 - (a) the name, identifying number and business of the cash dealer; and
 - (b) the name and address of the branch of the cash dealer at which the transaction was conducted.
2. The nature of the transaction.
3. The date of the transaction.
4. For each person conducting the transaction with the cash dealer:
 - (a) the name of the person; and
 - (b) the date of birth of the person; and
 - (c) the method used by the cash dealer to verify the identity of the person; and
 - (d) whether the person is a customer of the cash dealer who carries on a business and, if so, the industry code for that business that is published by the Australian Bureau of Statistics in the publication entitled:
 - (i) 'Australian Standard Industrial Classification', as in force on 1 July 1990; or
 - (ii) 'Australian and New Zealand Standard Industrial Classification', as in force on 31 March 1997.
5. For any person on whose behalf the transaction was conducted:
 - (a) the name of the person; and
 - (b) the business or residential address of the person; and
 - (c) the occupation, business or principal activity of the person; and
 - (d) whether the person is a customer of the cash dealer who carries on a business and, if so, the industry code for that business that is published by the Australian Bureau of Statistics in the publication entitled:
 - (i) 'Australian Standard Industrial Classification', as in force on 1 July 1990; or

- (ii) 'Australian and New Zealand Standard Industrial Classification', as in force on 31 March 1997.
- 6. The type and identifying number of any account with a cash dealer that is affected by the transaction.
- 7. The total amount of currency involved in the transaction.
- 8. The total monetary amount of the transaction.

13 Schedule 2 to the Act

Schedule 2 to the Act is amended by omitting items 1, 2 and 3 and substituting the following items:

- 1. For each person conducting the transaction with the financial institution:
 - (a) the name of the person; and
 - (b) the business or residential address of the person; and
 - (c) the occupation, business or principal activity of the person.
- 2. A statement whether the exemption covers deposits, withdrawals or both.
- 3. The total amount of currency involved in the transaction or the range of amounts of currency involved in the class of transactions.
- 3A. The total monetary amount of the transaction or the range of monetary amounts of the class of transactions.
- 3B. The amount and types of any foreign currency involved in a transaction.

14 Schedule 3 to the Act

Schedule 3 to the Act is amended:

- (a) by omitting paragraph 3 (a) and substituting the following paragraphs:
 - '(a) the name, address, date of birth and occupation (or, where appropriate, the business or principal activity) of the person;
 - (aa) the international travel document number and country of issue of the international travel document or international travel documents held by the person;'; and
- (b) by omitting from subparagraph 3 (e) (ii) 'the name and address' and substituting 'the name and address, and occupation, business or principal activity';
- (c) by omitting paragraph 3 (f) and substituting the following paragraph:

- (f) the day on which the person is to enter or leave Australia and the number of the flight or the name of the vessel on which the person is entering or leaving.’;
- (d) by inserting after paragraph 4 (a) the following paragraph:
 - (aa) the method by which the person received the currency or by which the person is to send the currency out of Australia; and’;
- (e) by inserting in paragraph 4 (c) ‘, date of birth’ after ‘address’;
- (f) by omitting from subparagraph 4 (d) (ii) ‘the name and address’ and substituting ‘the name and address, and occupation, business or principal activity’;
- (g) by adding after item 4 the following item:
 - ‘5. If a person is to carry the currency out of Australia — the name and address of that person.’.

15 Schedule 4 to the Act

Schedule 4 to the Act is amended by omitting items 1 to 9 inclusive and substituting the following items:

1. The name, address and business of the cash dealer
2. The nature of the transaction
3. The date of the transaction
4. The place where the transaction was conducted by the cash dealer
5. The names of, or other means of identifying, the persons conducting the transaction on behalf of the cash dealer
6. The identity of any other cash dealer known by the person preparing the report to be involved in the transaction
7. Details, so far as known to the person preparing the report, of the identity of:
 - (a) each person conducting the transaction other than the persons to in item 5; and
 - (b) any person on whose behalf the transaction was so conducted; including:
 - (c) the name; and
 - (d) the business or residential address; and
 - (e) the postal address (if different from the address referred to in paragraph (d)); and
 - (f) the occupation or, where appropriate, the business or principal activity of the person; and
 - (g) the date of birth of each person to whom paragraph (a) applies

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8. The methods used to ascertain and verify the details referred to in item 7
9. If a cheque is part of the transaction:
 - (a) the name of the drawer of the cheque; and
 - (b) the name of the payee of the cheque; and
 - (c) the name and branch of the financial institution or foreign financial institution on which the cheque is drawn, and the country in which the branch is located; and
 - (d) if the payee of the cheque is not the beneficiary of the amount of the cheque, the name of the beneficiary;so far as known to the person preparing the report
10. If the purchase or sale of a security forms part of the transaction:
 - (a) the name of the payee, the favouree or the beneficiary of the security (if any); and
 - (b) the name and branch of the financial institution or foreign financial institution involved in the purchase or sale, and the country in which the branch is located
11. If a transfer of currency, within a financial institution or from a financial institution or foreign financial institution to another financial institution or foreign financial institution, forms part of the transaction:
 - (a) the name of the payee, the favouree or the beneficiary of the transfer (if any); and
 - (b) the name and branch of the financial institution or foreign financial institution involved in the transfer, and the country in which the branch is located
12. The name, type, and identifying number, of any account known by the person preparing the report to be affected by the transaction
13. The amounts involved in the transaction
14. The beneficiary of those amounts, so far as known to the person preparing the report
15. The currencies involved in the transaction
16. The name of the person preparing the report
17. The title of the office of the person preparing the report.

Notes to the *Financial Transaction Reports Regulations 1990*

Note 1

The *Financial Transaction Reports Regulations 1990* (in force under the *Financial Transaction Reports Act 1988*) as shown in this compilation comprise Statutory Rules 1990 No. 36 amended as indicated in the Tables below.

Under the *Legislative Instruments Act 2003*, which came into force on 1 January 2005, it is a requirement for all non-exempt legislative instruments to be registered on the Federal Register of Legislative Instruments. From 1 January 2005 the Statutory Rules series ceased to exist and was replaced with Select Legislative Instruments (SLI series). Numbering conventions remain the same, ie Year and Number.

Table of Instruments

Year and number	Date of notification in <i>Gazette</i> or FRLI registration	Date of commencement	Application, saving or transitional provisions
1990 No. 36	27 Feb 1990	27 Feb 1990	
1990 No. 162	29 June 1990	1 July 1990	—
1990 No. 340	31 Oct 1990	31 Jan 1991	—
1990 No. 341	31 Oct 1990	1 Feb 1991 (see r. 3 and <i>Gazette</i> 1990, No. S288)	—
1991 No. 7	31 Jan 1991	Rr. 3.3, 3.4 and 4: 2 Feb 1991 Remainder: 1 Feb 1991	—
1991 No. 89	6 May 1991	6 May 1991	—
1991 No. 166	28 June 1991	28 June 1991	—
1992 No. 90	14 Apr 1992	4 May 1992	—
1992 No. 320	16 Oct 1992	Rr. 3–5: 6 Dec 1992 (see r. 1 and <i>Gazette</i> 1992, No. GN25) Remainder: 16 Oct 1992	—
1992 No. 423	24 Dec 1992	Rr. 1, 2 and 11: 1 Jan 1993 Remainder: 1 Feb 1993	—
1997 No. 63	26 Mar 1997	1 Apr 1997	—
1997 No. 303	5 Nov 1997	5 Nov 1997	—

Table of Instruments

Year and number	Date of notification in Gazette or FRLI registration	Date of commencement	Application, saving or transitional provisions
2000 No. 288	1 Nov 2000	1 Nov 2000	—
2001 No. 64	12 Apr 2001	12 Apr 2001	—
2002 No. 257	6 Nov 2002	1 Jan 2003	—
2003 No. 32	13 Mar 2003	1 Jan 2003	—
2005 No. 207 (a)	19 Sept 2005 (see F2005L02673)	1 Oct 2005 (see r. 2)	—

- (a) Select Legislative Instrument 2005 No. 207 is made under the *Civil Aviation Act 1988*, the *Commonwealth Authorities and Companies Act 1997*, the *Customs Administration Act 1985*, the *Family Law Act 1975*, the *Financial Management and Accountability Act 1997*, the *Financial Transaction Reports Act 1988*, the *Freedom of Information Act 1982*, the *Health Insurance Act 1973*, the *Health Insurance Commission Act 1973*, the *Income Tax Assessment Act 1997*, the *Lands Acquisition Act 1989*, the *Maternity Leave (Commonwealth Employees) Act 1973*, the *Medical Indemnity Act 2002*, the *National Health Act 1953*, the *Ombudsman Act 1976*, the *Privacy Act 1988*, the *Proceeds of Crime Act 1987*, the *Public Works Committee Act 1969* and the *Superannuation (Productivity Benefit) Act 1988*.

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 1	am. 1992 No. 320 rs. 2000 No. 288
R. 2	rs. 1990 No. 341 am. 1991 Nos. 7 and 166; 1992 Nos. 90, 320 and 423; 1997 No. 303; 2000 No. 288
R. 2A.....	ad. 1997 No. 303
R. 3	ad. 1990 No. 341 am. 1991 No. 166; 1992 Nos. 90 and 423; 1997 No. 303
R. 4	ad. 1990 No. 341 am. 1991 No. 166; 1992 Nos. 90 and 423; 1997 No. 303
R. 5	ad. 1990 No. 341 am. 1991 No. 166; 1992 Nos. 90 and 423
R. 5A.....	ad. 1997 No. 303
R. 6	ad. 1990 No. 341 am. 1991 No. 166; 2000 No. 288; 2003 No. 32
R. 7	ad. 1990 No. 341 am. 1991 Nos. 7 and 166; 1992 No. 423; 2000 No. 288
R. 8	ad. 1990 No. 341 am. 1991 No. 166; 1992 Nos. 90 and 423
R. 9	ad. 1990 No. 341 am. 1991 No. 166; 1992 No. 423; 1997 No. 303
R. 10.....	ad. 1990 No. 341 am. 1997 No. 303
R. 10A.....	ad. 1991 No. 166 am. 1992 No. 423; 2000 No. 288; 2005 No. 207
R. 10B.....	ad. 1992 No. 423 am. 2000 No. 288
R. 11	ad. 1990 No. 341
R. 11AA	ad. 1992 No. 320
R. 11A.....	ad. 1991 No. 7 rs. 1992 No. 423 am. 1997 No. 303
R. 11B.....	ad. 1991 No. 89 am. 1992 Nos. 90 and 423; 1997 No. 303
R. 11C.....	ad. 1992 No. 423 am. 2000 No. 288; 2005 No. 207
R. 11D.....	ad. 2002 No. 257 am. 2003 No. 32

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 12	ad. 1990 No. 162
Formerly r. 2A	1990 No. 340
	am. 1997 No. 63
R. 13	ad. 1990 No. 162
Formerly r. 2B	1990 No. 340
R. 14	ad. 1990 No. 162
Formerly r. 2C	1990 No. 340
	am. 1992 No. 423
R. 15	1990 No. 340
Formerly r. 3	am. 1992 No. 423; 2001 No. 64
