



Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2009 (No. 5)

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

I, John Lance Schmidt, Chief Executive Officer, Australian Transaction Reports and Analysis Centre, make this Instrument under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Dated 26 November 2009

[Signed]
John Lance Schmidt
Chief Executive Officer
Australian Transaction Reports and Analysis Centre

1 Name of Instrument

This Instrument is the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2009 (No. 5)*.

2 Commencement

This Instrument commences on the day after it is registered.

3 Amendment

Schedule 1 amends the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*.

Schedule 1 Amendment of the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*.

1. Chapter 11, paragraph 11.2

substitute

For paragraph 47(1)(a) of the AML/CTF Act, a reporting period is:

- (1) the period beginning on 13 December 2006 and ending on 31 December 2007; and
- (2) the period beginning on 1 January 2008 and ending on 31 December 2008; and
- (3) the period beginning on 1 January 2009 and ending on 31 December 2009.

2. After Chapter 39

insert

Chapter 40 Definition of ‘exempt legal practitioner service’

- 40.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and*

Counter-Terrorism Financing Act 2006 (AML/CTF Act) for the definition of 'exempt legal practitioner service' in section 5 of that Act.

40.2 A service is taken to be an 'exempt legal practitioner service' if:

- (1) it is provided in the ordinary course of carrying on a law practice and is a custodial or depository service other than conduct that under section 766E(1) of the *Corporations Act 2001* constitutes providing a custodial or depository service; or
- (2) it is provided in the ordinary course of carrying on a law practice and is a safe deposit box or similar facility other than in relation to physical currency.

40.3 In this Chapter:

'law practice' means a business carried out by either of the following:

- (1) a legal practitioner (however described) that supplies professional legal services; or
- (2) a partnership or company that uses legal practitioners (however described) to supply professional legal services.

Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the National Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.privacy.gov.au> or call 1300 363 992.

Chapter 41

Cashing out of superannuation fund low balance accounts

- 41.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 39(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
- 41.2 Subject to paragraph 41.3, Division 4 of Part 2 of the AML/CTF Act does not apply to a designated service that is of a kind described in item 43(a) of table 1 in subsection 6(2) of the AML/CTF Act.
- 41.3 The exemption in paragraph 41.2 applies only if:
- (1) on the date the member applies for the interest in the superannuation fund to be cashed out, the value of the interest is not greater than \$1,000;
 - (2) no additional contributions are accepted from the member in relation to the interest;
 - (3) the whole of the interest of the member in the superannuation fund is cashed out; and
 - (4) the account in which the interest of the member in the superannuation fund was held is closed as soon as practicable after the cashing out of the interest of the member.
- 41.4 In this Chapter:
- (1) ‘member’ has the same meaning as the customer of the designated service in item 43 of table 1 in subsection 6(2) of the AML/CTF Act.

Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the National Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.privacy.gov.au> or call 1300 363 992.

Chapter 42

Commodity warehousing of grain

42.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for subsection 247(3) of that Act.

42.2 The AML/CTF Act does not apply to a designated service that:

- (1) is of a kind described in item 6 of table 1 in subsection 6(2) of the AML/CTF Act; and
 - (a) is provided to a customer who is a grain grower who delivers grain into a grain pool; and
 - (b) the maximum loan amount is determined by the value of the grain at the time the customer delivers it into the grain pool; and
 - (c) the loan amount does not exceed the value of the grain at the time the customer delivers it into the grain pool; and
 - (d) loan repayments made by the customer are met from the grain pool payments made from the grain pool to which the grain has been delivered; or
- (2) is of a kind described in item 7 of table 1 in subsection 6(2) of the AML/CTF Act; and
 - (a) the transactions are conducted by the customer in relation to a loan that is covered by sub-paragraph 42.2(1).

42.3 In this Chapter:

- (1) ‘grain’ means grains, oil seeds and pulses of all kinds, qualities and varieties including wheat, barley, oats, sorghum, maize and rice;
- (2) ‘grain pool’ means a grouping of grain into a pool based on classification for the purposes of sale. After all of the grain in a pool from a particular harvest has been sold and all distributions have been paid, that pool ceases to exist.

Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the National Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.privacy.gov.au> or call 1300 363 992.

Chapter 43 Friendly Society closed funds

- 43.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 247(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
- 43.2 Subject to paragraph 43.3, the AML/CTF Act does not apply to a designated service that is of a kind described in:
- (1) item 37 of table 1 in subsection 6(2); or
 - (2) item 38 of table 1 in subsection 6(2); or
 - (3) item 39 of table 1 in subsection 6(2).
- 43.3 The exemption in paragraph 43.2 applies if:
- (1) the person providing the designated service is a friendly society; and
 - (2) the designated service is provided in relation to an approved benefit fund and the approved benefit fund rules state that the approved benefit fund:
 - (a) is closed to new members; and
 - (b) new policies cannot be written to the approved benefit fund.
- 43.4 In this Chapter:
- (1) ‘approved benefit fund’ has the meaning given by section 16B of the *Life Insurance Act 1995* (Cth);
 - (2) ‘approved benefit fund rules’ has the meaning given by section 16B of the *Life Insurance Act 1995* (Cth);
 - (3) ‘friendly society’ has the meaning given by section 16C of the *Life Insurance Act 1995* (Cth).

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