



Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2011 (No. 2)

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 10 May 2011

[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 2011 (No. 2)*.

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 16

1. For subparagraph 16.2(1) *substitute*

- (1) for an instruction within the meaning of paragraphs 70(b) or 70(c) of the AML/CTF Act – the complete payer information under section 71 of the AML/CTF Act;

2. For subparagraph 16.2(2) *substitute*

- (2) for an instruction within the meaning of paragraph 70(a) of the AML/CTF Act – the tracing information under section 72 of the AML/CTF Act;

3. For subparagraph 16.3(3)(a) *substitute*

- (a) for an instruction within the meaning of paragraphs 70(b) or 70(c) of the AML/CTF Act;

4. For subparagraph 16.3(3)(b) *substitute*

- (b) for an instruction within the meaning of paragraph 70(a) of the AML/CTF Act – the tracing information under section 72 of the AML/CTF Act;

5. After subparagraph 16.3(6) insert

16.4 A report under subsection 45(2) of the AML/CTF Act must contain the following details about the person completing the report:

- (1) Full name;
- (2) Job title or position;
- (3) Telephone number; and
- (4) Email address.

2. After Chapter 50

Insert

Chapter 51 AML/CTF Rules relating to certain definitions under the AML/CTF Act

- 51.1. 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 ‘financial institution’ in section 5 of the AML/CTF Act under paragraph (e), the definition of ‘non-financier’ in section 5 of the AML/CTF Act under paragraph (e), the definition of ‘ordering institution’ and ‘beneficiary institution’ in subparagraphs 8(1)(c)(v), 8(1)(d)(v), 8(2)(c)(v), 9(1)(c)(v), 9(1)(d)(v) and 9(2)(c)(v) of the AML/CTF Act and the conditions under paragraph 45(1)(c) of that Act.
- 51.2. For the purposes of subparagraph (e) of the definition of ‘financial institution’ in section 5 of the AML/CTF Act, the following persons are specified, subject to the applicable conditions in paragraph 51.5:
- (1) KEB Australia Limited ABN 11 003 095 181 of Suite 902, 2 Chifley Square, Sydney, NSW, 2000; and
 - (2) Travelex Limited ABN 36 004 179 953 of Level 12, 1 Margaret Street, Sydney, NSW, 2000.
- 51.3. For the purposes of subparagraph (e) of the definition of ‘non-financier’ in section 5 of the AML/CTF Act, the following persons are specified, subject to the applicable conditions in paragraph 51.5:
- (1) KEB Australia Limited ABN 11 003 095 181 of Suite 902, 2 Chifley Square, Sydney, NSW, 2000; and

- (2) Travelex Limited ABN 36 004 179 953 of Level 12, 1 Margaret Street, Sydney, NSW, 2000.
- 51.4. For the purposes of subparagraphs 8(1)(c)(v), 8(1)(d)(v), 8(2)(c)(v), 9(1)(c)(v), 9(1)(d)(v) and 9(2)(c)(v), the following persons are specified, subject to the applicable conditions in paragraph 51.5:
 - (1) KEB Australia Limited ABN 11 003 095 181 of Suite 902, 2 Chifley Square, Sydney, NSW, 2000; and
 - (2) Travelex Limited ABN 36 004 179 953 of Level 12, 1 Margaret Street, Sydney, NSW, 2000.
- 51.5. For the purposes of paragraphs 51.1 – 51.4, the following conditions are specified in relation to international funds transfer instructions covered by item 1 or 2 of the table in section 46:
 - (1) the person uses a proprietary system to send or receive the international funds transfer instruction; and
 - (2) the person is licensed under the *Corporations Act 2001* to deal in a foreign exchange contract; and
 - (3) the person is not acting in the capacity of an agent of a non-financier; and either of the following two additional conditions is also met:
 - (4) the person is a wholly owned or majority owned subsidiary of an ADI, bank, building society or credit union; or
 - (5) the person is part of a member-administered closed user group.
- 51.6. In this Chapter:
 - (1) ‘foreign exchange contract’ has the same meaning as in the *Corporations Act 2001*;
 - (2) ‘member-administered closed user group’ means a SWIFT operated, SWIFT member administered service that enables the members of the closed user group to exchange SWIFT financial messages and file services with other members of the group;
 - (3) ‘proprietary system’ includes the Society for Worldwide Interbank Financial Telecommunication (SWIFT).

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.