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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Anti-Money Laundering and
Counter-Terrorism Financing
Amendment Bill 2017**

No. , 2017

(Justice)

**A Bill for an Act to amend legislation relating to
combating money laundering and terrorism
financing, and for related purposes**

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1 **A Bill for an Act to amend legislation relating to**
2 **combating money laundering and terrorism**
3 **financing, and for related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act is the *Anti-Money Laundering and Counter-Terrorism*
7 *Financing Amendment Act 2017*.

8 **2 Commencement**

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	A day or days to be fixed by Proclamation. However, if any of the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Objects of Act

***Anti-Money Laundering and Counter-Terrorism Financing
Act 2006***

1 Before paragraph 3(1)(a)

Insert:

- (aa) to provide for measures to detect, deter and disrupt money laundering, the financing of terrorism, and other serious financial crimes; and
- (ab) to provide relevant Australian government bodies and their international counterparts with the information they need to investigate and prosecute money laundering offences, offences constituted by the financing of terrorism, and other serious crimes; and
- (ac) to support cooperation and collaboration among reporting entities, AUSTRAC and other government agencies, particularly law enforcement agencies, to detect, deter and disrupt money laundering, the financing of terrorism, and other serious crimes; and
- (ad) to promote public confidence in the Australian financial system through the enactment and implementation of controls and powers to detect, deter and disrupt money laundering, the financing of terrorism, and other serious crimes; and

Part 2—Digital currencies

***Anti-Money Laundering and Counter-Terrorism Financing
Act 2006***

2 Section 4

After:

- Providers of registrable designated remittance services or registrable remittance network services must be registered with the AUSTRAC CEO.

insert:

- Providers of registrable digital currency exchange services must be registered with the AUSTRAC CEO.

3 Section 5

Insert:

digital currency means:

(a) a digital representation of value that:

- (i) functions as a medium of exchange, a store of economic value, or a unit of account; and
- (ii) is not issued by or under the authority of a government body; and
- (iii) is interchangeable with money (including through the crediting of an account) and may be used as consideration for the supply of goods or services; and
- (iv) is generally available to members of the public without any restriction on its use as consideration; or

(b) a means of exchange or digital process or crediting declared to be digital currency by the AML/CTF Rules;

but does not include any right or thing that, under the AML/CTF Rules, is taken not to be digital currency for the purposes of this Act.

1 ***Digital Currency Exchange Register*** has the meaning given by
2 section 76B.

3 **4 Section 5 (definition of *e-currency*)**

4 Repeal the definition.

5 **5 Section 5 (paragraph (c) of the definition of *money*)**

6 Omit “other currency; and”, substitute “other currency.”.

7 **6 Section 5 (paragraph (d) of the definition of *money*)**

8 Repeal the paragraph.

9 **7 Section 5 (definition of *precious metal*)**

10 Repeal the definition.

11 **8 Section 5 (definition of *property*)**

12 After “money”, insert “or digital currency”.

13 **9 Section 5**

14 Insert:

15 ***registered digital currency exchange provider*** means a person
16 registered under section 76E as a digital currency exchange
17 provider.

18 ***registrable digital currency exchange service*** means a designated
19 service that:

- 20 (a) is covered by item 50A of table 1 in section 6; and
21 (b) is not of a kind specified in the AML/CTF Rules.

22 **10 Section 5 (definition of *registration*)**

23 Repeal the definition, substitute:

24 ***registration*** means:

- 25 (a) in, or in relation to, Part 6—registration as any of the
26 following:
27 (i) a remittance network provider;
28 (ii) an independent remittance dealer;

- 1 (iii) a remittance affiliate of a registered remittance network
2 provider; or
3 (b) in, or in relation to, Part 6A—registration as a digital
4 currency exchange provider.

5 **11 Section 5 (paragraph (b) of the definition of *threshold***
6 ***transaction*)**

7 Repeal the paragraph.

8 **12 Section 5 (after paragraph (c) of the definition of *threshold***
9 ***transaction*)**

10 Insert:

11 (ca) if:

- 12 (i) the regulations provide that this definition applies to a
13 specified transaction involving digital currency; and
14 (ii) the regulations provide that a specified amount is the
15 transaction threshold for the specified transaction;
16 the specified transaction, where the total amount transferred
17 is not less than the transaction threshold for the transaction;
18 or

19 **13 Section 5 (definition of *threshold transaction*)**

20 Omit “Paragraphs (a) and (b) do”, substitute “Paragraph (a) does”.

21 **14 Section 5 (note 2 at the end of the definition of *threshold***
22 ***transaction*)**

23 Omit “e-currency”, substitute “digital currency”.

24 **15 Subsection 6(2) (after table item 50)**

25 Insert:

26

50A	exchanging digital currency for money (whether Australian or not) or exchanging money (whether Australian or not) for digital currency, where the exchange is provided in the course of carrying on a digital currency exchange	the person whose digital currency or money is exchanged
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business

16 Subsection 6(4) (table item 7)

After “money” (wherever occurring), insert “or digital currency”.

17 Subsection 6(4) (table item 8)

After “money”, insert “or digital currency”.

18 Section 19 (heading)

Repeal the heading, substitute:

19 Translation of digital currency to Australian currency

19 Section 19

Omit “e-currency” (wherever occurring), substitute “digital currency”.

20 After Part 6

Insert:

Part 6A—The Digital Currency Exchange Register

Division 1—Simplified outline

76 Simplified outline

The following is a simplified outline of this Part:

- This Part provides for a system of registration for providers of digital currency exchange services.
- Division 2 sets out offences and civil penalties in relation to the provision of registrable digital currency exchange services by persons who are not registered.
- Division 3 requires the AUSTRAC CEO to maintain the Digital Currency Exchange Register and sets out the process of applying for registration.

**Division 2—Restrictions on providing digital currency
exchange services**

**76A Unregistered persons must not provide certain digital currency
exchange services**

Registrable digital currency exchange services

- (1) A person (the **first person**) must not provide a registrable digital currency exchange service to another person if the first person is not a registered digital currency exchange provider.

Breach of conditions

- (2) A person must not breach a condition to which the registration of the person as a digital currency exchange provider is subject.

Offences

- (3) A person commits an offence if:
- (a) the person is subject to a requirement under subsection (1) or (2); and
 - (b) the person engages in conduct; and
 - (c) the person's conduct breaches the requirement.

Penalty: Imprisonment for 2 years or 500 penalty units, or both.

- (4) Strict liability applies to paragraphs (3)(b) and (c).

Note: For **strict liability**, see section 6.1 of the *Criminal Code*.

- (5) A person commits an offence if:
- (a) the person is subject to a requirement under subsection (1) or (2); and
 - (b) the person engages in conduct; and
 - (c) the person's conduct breaches the requirement; and
 - (d) the AUSTRAC CEO previously:
 - (i) gave the person a direction under subsection 191(2) in relation to subsection (1) or (2) of this section; or

1 (ii) accepted an undertaking given by the person under
2 section 197 in relation to subsection (1) or (2) of this
3 section; and

4 (e) that was the only occasion on which the AUSTRAC CEO
5 previously gave such a direction to, or accepted such an
6 undertaking from, the person.

7 Penalty: Imprisonment for 4 years or 1,000 penalty units, or both.

8 (6) Strict liability applies to paragraphs (5)(b) and (c).

9 Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

10 (7) A person commits an offence if:

11 (a) the person is subject to a requirement under subsection (1) or
12 (2); and

13 (b) the person engages in conduct; and

14 (c) the person's conduct breaches the requirement; and

15 (d) the AUSTRAC CEO previously:

16 (i) gave the person a direction under subsection 191(2) in
17 relation to subsection (1) or (2) of this section; or

18 (ii) accepted an undertaking given by the person under
19 section 197 in relation to subsection (1) or (2) of this
20 section; and

21 (e) that was not the only occasion on which the AUSTRAC CEO
22 previously gave such a direction to, or accepted such an
23 undertaking from, the person.

24 Penalty: Imprisonment for 7 years or 2,000 penalty units, or both.

25 (8) Strict liability applies to paragraphs (7)(b) and (c).

26 Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

27 (9) A person commits an offence if:

28 (a) the person is subject to a requirement under subsection (1) or
29 (2); and

30 (b) the person engages in conduct; and

31 (c) the person's conduct breaches the requirement; and

32 (d) either:

- 1 (i) the person had previously been convicted of an offence
2 against subsection (3), (5) or (7), and that conviction has
3 not been set aside or quashed; or
4 (ii) an order had previously been made against the person
5 under section 19B of the *Crimes Act 1914* in respect of
6 an offence against subsection (3), (5) or (7), and that
7 order has not been set aside.

8 Penalty: Imprisonment for 7 years or 2,000 penalty units, or both.

9 (10) Strict liability applies to paragraphs (9)(b) and (c).

10 Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

11 *Civil penalty*

12 (11) Subsections (1) and (2) are civil penalty provisions.

13 Division 3—Registration of persons

14 76B Digital Currency Exchange Register

- 15 (1) The AUSTRAC CEO must maintain a register for the purposes of
16 this Part, to be known as the Digital Currency Exchange Register.
- 17 (2) The AUSTRAC CEO may maintain the Digital Currency
18 Exchange Register by electronic means.
- 19 (3) The Digital Currency Exchange Register is not a legislative
20 instrument.
- 21 (4) The AML/CTF Rules may make provision for and in relation to the
22 following:
- 23 (a) the correction of entries in the Digital Currency Exchange
24 Register;
- 25 (b) the publication of the Digital Currency Exchange Register in
26 whole or part, or of specified information entered on the
27 Digital Currency Exchange Register;
- 28 (c) any other matter relating to the administration or operation of
29 the Digital Currency Exchange Register.

1 **76C Information to be entered on the Digital Currency Exchange**
2 **Register**

3 If the AUSTRAC CEO decides to register a person under
4 subsection 76E(2), the AUSTRAC CEO must enter the following
5 details on the Digital Currency Exchange Register:

- 6 (a) the name of the person;
7 (b) any conditions to which the registration of the person is
8 subject;
9 (c) the date on which the registration takes effect;
10 (d) the registrable details in relation to the person.

11 **76D Applications for registration**

- 12 (1) A person may apply in writing to the AUSTRAC CEO for
13 registration as a digital currency exchange provider.
- 14 (2) An application under subsection (1) must:
15 (a) be in the approved form; and
16 (b) contain the information required by the AML/CTF Rules.
- 17 (3) Without limiting the information that the AML/CTF Rules may
18 require under paragraph (2)(b), the AML/CTF Rules may require
19 information relating to the matters mentioned in
20 paragraph 76E(2)(a) or in Rules made under paragraph 76E(2)(b)
21 (these provisions deal with matters to which the AUSTRAC CEO
22 must have regard in deciding whether to register a person).

23 *Deemed refusal in certain circumstances*

- 24 (4) If the AUSTRAC CEO has not made a decision on the application
25 within the relevant period, the AUSTRAC CEO is taken to have
26 decided not to register the person at the end of the relevant period.
27 The **relevant period** is the period of 90 days beginning on the latest
28 of the following days:
29 (a) the day the application is made;
30 (b) if the AUSTRAC CEO requests information under
31 subsection 76Q(1) in relation to the application—the last day
32 such information is provided;

- 1 (c) if the person makes a submission under section 76S in
2 relation to the application—the day the person makes the
3 submission.

4 Note: A deemed decision not to register the person is reviewable (see
5 Part 17A).

- 6 (5) However, if the AUSTRAC CEO determines in writing that:
7 (a) the application cannot be dealt with properly within the 90
8 day period, either because of its complexity or because of
9 other special circumstances; and
10 (b) that period is extended by a specified period of not more than
11 30 days;
12 the relevant period is that period as so extended. The AUSTRAC
13 CEO must notify the applicant in writing of the determination
14 before the end of the 90 day period.

15 **76E Registration by AUSTRAC CEO**

16 *When section applies*

- 17 (1) This section applies if an application has been made under
18 section 76D for registration of a person.

19 *When AUSTRAC CEO must register a person*

- 20 (2) The AUSTRAC CEO must decide to register the person in
21 accordance with the application if the AUSTRAC CEO is satisfied
22 that it is appropriate to do so, having regard to:
23 (a) whether registering the person would involve a significant
24 money laundering, financing of terrorism or other serious
25 crime risk; and
26 (b) such other matters (if any) as are specified in the AML/CTF
27 Rules under this paragraph.

28 Note: A decision not to register the person is reviewable (see Part 17A).

29 *Matters that may be specified in the AML/CTF Rules*

- 30 (3) Without limiting the matters that the AML/CTF Rules may specify
31 under paragraph (2)(b), the matters may relate to the following:

- 1 (a) offences of which the applicant for registration, or any other
2 person, has been charged or convicted under the law of the
3 Commonwealth, a State or Territory or a foreign country;
4 (b) the compliance or non-compliance of the applicant, or any
5 other person, with this Act or any other law;
6 (c) the legal and beneficial ownership and control of the
7 applicant, or any other person.

8 *Notice of decision to register*

- 9 (4) The AUSTRAC CEO must, as soon as practicable after deciding to
10 register an applicant, give a written notice to the applicant.

11 *Contents of notice of decision to register*

- 12 (5) A notice under subsection (4) must specify:
13 (a) the conditions (if any) to which the registration is subject (see
14 section 76G); and
15 (b) the date on which the registration takes effect.

16 **76F Spent convictions scheme**

17 The AML/CTF Rules made under paragraph 76D(2)(b) or
18 76E(2)(b) must not affect the operation of Part VIIC of the *Crimes*
19 *Act 1914* (which includes provisions that, in certain circumstances,
20 relieve persons from the requirement to disclose spent convictions
21 and require persons aware of such convictions to disregard them).

22 **76G Registration may be subject to conditions**

- 23 (1) The AUSTRAC CEO may, in writing, impose conditions to which
24 the registration of a person under this Part is subject.

25 Note: A decision to impose a condition is reviewable (see Part 17A).

- 26 (2) Without limiting the conditions that the AUSTRAC CEO may
27 impose under subsection (1), the conditions may relate to the
28 following:

- 29 (a) the value of digital currency or money exchanged;

- (b) the volume of digital currency exchanged (whether by reference to a particular period, a particular kind of digital currency, or otherwise);
- (c) the kinds of digital currencies exchanged;
- (d) requiring notification of the exchange of particular kinds of digital currency, changes in circumstances, or other specified events.

Note: Section 76P imposes a general obligation in relation to notification of changes in circumstances.

76H When registration of a person ceases

- (1) The registration of a person ceases at the earliest of the following times:
 - (a) when the cancellation of the registration of the person under section 76J takes effect;
 - (b) when the entry relating to the registration of the person is removed from the Digital Currency Exchange Register under subsection 76M(2);
 - (c) subject to subsection (2)—3 years after the day on which the registration took effect;
 - (d) in the case of an individual—when the individual dies;
 - (e) in the case of a body corporate—when the body corporate ceases to exist.
- (2) Paragraph (1)(c) is subject to the AML/CTF Rules made under section 76L (which deals with renewal of registration).

76J Cancellation of registration

- (1) The AUSTRAC CEO may cancel the registration of a person if the AUSTRAC CEO is satisfied that it is appropriate to do so, having regard to:
 - (a) whether the continued registration of the person involves, or may involve, a significant money laundering, financing of terrorism or other serious crime risk; or
 - (b) one or more breaches by the person of a condition of registration; or

1 (c) such other matters (if any) as are specified in the AML/CTF
2 Rules under this paragraph.

3 (2) The AUSTRAC CEO may also cancel the registration of a person
4 if the AUSTRAC CEO has reasonable grounds to believe that the
5 registered person no longer carries on a business that involves
6 providing a digital currency exchange service.

7 Note: A decision to cancel a registration is reviewable (see Part 17A).

8 (3) The cancellation of the registration of a person takes effect on the
9 day specified in the notice given to the person under
10 subsection 233C(1).

11 (4) The AUSTRAC CEO may publish, in the manner specified in the
12 AML/CTF Rules, a list of the names of persons whose registration
13 has been cancelled and the date the cancellation takes effect.

14 **76K Suspension of registration**

15 (1) The AML/CTF Rules may make provision for and in relation to the
16 suspension of registrations by the AUSTRAC CEO under this Part.

17 (2) The AML/CTF Rules may provide for matters including, but not
18 limited to, the following:

- 19 (a) the grounds for suspension of registration;
- 20 (b) the effect of suspension on registration;
- 21 (c) the period for which suspensions have effect;
- 22 (d) making entries in and removing entries from the Digital
23 Currency Exchange Register in relation to suspension;
- 24 (e) notices of suspension;
- 25 (f) review of decisions relating to suspension.

26 **76L Renewal of registration**

27 (1) The AML/CTF Rules may make provision for and in relation to the
28 renewal of registrations by the AUSTRAC CEO under this Part.

29 (2) The AML/CTF Rules may provide for matters including, but not
30 limited to, the following:

- 31 (a) the making of applications for renewal;

- 1 (b) the period within which applications for renewal may be
2 made;
3 (c) the criteria for determining applications for renewal;
4 (d) entries in the Digital Currency Exchange Register in relation
5 to renewal;
6 (e) the giving of notices relating to decisions on applications for
7 renewal;
8 (f) review of decisions relating to applications for renewal;
9 (g) the period for which renewed registrations have effect.
- 10 (3) In particular, the AML/CTF Rules may provide that:
- 11 (a) if the registration of a person would otherwise cease at the
12 end of the period of 3 years commencing on the day on
13 which the registration took effect; and
14 (b) before the end of that period, an application for renewal of
15 the registration was made to the AUSTRAC CEO within the
16 period, and in the manner provided for, in the AML/CTF
17 Rules;
- 18 the registration of the person continues in effect after the end of
19 that period in accordance with the Rules.

20 **76M Removal of entries from the Digital Currency Exchange**
21 **Register**

22 *Removal on request*

- 23 (1) A person who is a registered digital currency exchange provider
24 may request the AUSTRAC CEO, in writing, to remove the entry
25 relating to the registration of the person from the Digital Currency
26 Exchange Register.
- 27 (2) If a person makes a request under subsection (1), the AUSTRAC
28 CEO must remove the entry from the Digital Currency Exchange
29 Register.

30 *Removal on cessation of registration*

- 31 (3) If the registration of a person ceases under another provision of this
32 Part, the AUSTRAC CEO must remove the entry relating to the
33 registration from the Digital Currency Exchange Register.

1 *Notice of removal*

- 2 (4) The AUSTRAC CEO must, as soon as reasonably practicable,
3 notify a person, in writing, if the AUSTRAC CEO has acted under
4 subsection (3) in relation to the person (unless the person has died
5 or, in the case of a body corporate, ceased to exist).

6 **76N AML/CTF Rules—general provision**

7 If a provision of this Part provides for the AML/CTF Rules to
8 make provision in relation to a matter relating to the registration or
9 proposed registration of a person, the AML/CTF Rules may make
10 different provision in relation to a matter depending on different
11 circumstances.

12 **76P Registered persons to advise of material changes in**
13 **circumstance etc.**

- 14 (1) A person who is registered under this Part must advise the
15 AUSTRAC CEO of the following:
16 (a) any change in circumstances that could materially affect the
17 person's registration;
18 (b) any matters specified in the AML/CTF Rules for the
19 purposes of this paragraph.
- 20 (2) A person who is required by this section to advise the AUSTRAC
21 CEO of a change in circumstances or a matter must do so:
22 (a) in accordance with the approved form; and
23 (b) within 14 days of the change in circumstances or the matter
24 arising (however described).

25 *Civil penalty*

- 26 (3) Subsection (1) is a civil penalty provision.

27 **76Q AUSTRAC CEO may request further information**

- 28 (1) The AUSTRAC CEO may, in writing, request further information
29 from any person for the purposes of making a decision under this
30 Part.

- 1 (2) The AUSTRAC CEO is not required to make a decision under this
2 Part until any information requested under subsection (1) in
3 relation to the decision has been provided.

4 **76R Immunity from suit**

5 An action, suit or proceeding (whether criminal or civil) does not
6 lie against:

- 7 (a) the Commonwealth; or
8 (b) the AUSTRAC CEO; or
9 (c) a member of the staff of AUSTRAC;

10 in relation to the publication of the Digital Currency Exchange
11 Register or a list of a kind mentioned in subsection 76J(4).

12 **76S Steps to be taken by AUSTRAC CEO before making certain**
13 **reviewable decisions**

- 14 (1) Before making a reviewable decision under section 76E, 76G or
15 76J in relation to a person, the AUSTRAC CEO must give a
16 written notice to the person containing:

- 17 (a) the terms of the proposed decision; and
18 (b) if the proposed decision is to cancel a registration—the date
19 on which the cancellation is proposed to take effect; and
20 (c) the reasons for the proposed decision; and
21 (d) a statement that the person may, within 28 days of the giving
22 of the notice, make a submission under this section in relation
23 to the proposed decision.

- 24 (2) The AUSTRAC CEO is not required to give a notice under this
25 section if the AUSTRAC CEO is satisfied that it is inappropriate to
26 do so because of the urgency of the circumstances.

27 **Division 4—Basis of registration**

28 **76T Basis of registration**

29 Registration under this Part is on the basis that:

- 30 (a) the registration may cease as mentioned in section 76H; and

- (b) the registration may be suspended as mentioned in section 76K; and
- (c) the registration may be made subject to conditions as mentioned in section 76G; and
- (d) the registration may cease, be suspended or be made subject to conditions by or under later legislation; and
- (e) no compensation is payable if the registration ceases, is suspended or made subject to conditions as mentioned in any of the above paragraphs.

21 Paragraph 142(1)(b)

After “money”, insert “, digital currency”.

22 Subsection 142(2)

After “money”, insert “, digital currency”.

23 Paragraph 142(3)(a)

After “money”, insert “, digital currency”.

24 At the end of subsection 184(1A)

Add:

- ; (e) subsections 76A(1) and (2) (which deal with providing certain digital currency exchange services without being registered);
- (f) subsection 76P(1) (which deals with notifying the AUSTRAC CEO of certain matters).

25 Section 186A (heading)

Repeal the heading, substitute:

186A Amount of penalty—breaches of certain provisions of Part 6, Part 6A or Part 3A

26 Subsection 186A(1)

After “(a *Part 6 infringement notice provision*)”, insert “, subsection 76A(1) or (2) or 76P(1) (a *Part 6A infringement notice provision*)”.

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3C

1 **35 Section 233B (at the end of the table)**

2 Add:

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- 7 A decision that is declared by the AML/CTF Rules under
paragraph 75H(2)(g), 75J(2)(f), 76K(2)(f) or 76L(2)(f) to be a reviewable
decision for the purposes of this section.

4 **36 Paragraph 233C(1)(b)**

5 After “section 75G”, insert “or 76J”.

6 **37 Subsection 233C(2)**

7 Omit “subsection 75B(6) (about deemed refusal)”, substitute
8 “subsection 75B(6) or 76D(4) (about deemed refusals)”.

1 **Part 3—Remittance activities**

2 *Anti-Money Laundering and Counter-Terrorism Financing*
3 *Act 2006*

4 **38 Paragraph 75C(2)(a)**

5 Omit “or people smuggling”, substitute “, people smuggling or other
6 serious crime”.

7 **39 Subsection 75E(1)**

8 Omit “under subsection 75C(2)”, substitute “under this Part”.

9 **40 Paragraph 75G(1)(a)**

10 Omit “or people smuggling”, substitute “, people smuggling or other
11 serious crime”.

12 **41 After subsection 75G(1)**

13 Insert:

14 (1A) The AUSTRAC CEO may also cancel the registration of a person
15 if the AUSTRAC CEO has reasonable grounds to believe that the
16 registered person no longer carries on a business that gives rise to
17 the requirement to be registered under this Part.

Part 4—Regulatory relief to industry

***Anti-Money Laundering and Counter-Terrorism Financing
Act 2006***

42 Section 5

Insert:

corporate group has the meaning given by subsection 123(12).

43 Section 5 (at the end of the definition of *financial institution*)

Add:

The AML/CTF Rules made under paragraph (e) may specify different persons to be financial institutions for the purposes of different provisions of this Act.

44 Subsection 6(2) (table items 51 and 53)

Repeal the items.

45 Subsection 6(3) (table items 1 and 2)

After “carrying on a”, insert “bullion-dealing”.

46 Subsection 6(4) (table items 1, 2, 3, 4, 6, 9, 11, 12 and 13)

After “carrying on a”, insert “gambling”.

47 Subsections 97(1) and (2)

After “with another financial institution”, insert “that will involve a vostro account”.

48 Subsections 98(1) and (2)

After “with another financial institution”, insert “that involves a vostro account”.

49 Subsection 99(1)

After “with another person”, insert “that will involve a vostro account”.

1 **57 Subsection 3(1) (subparagraphs (k)(i) and (iii) of the**
2 **definition of *cash dealer*)**

3 Repeal the subparagraphs.

Part 5—Investigation and enforcement

***Anti-Money Laundering and Counter-Terrorism Financing
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58 Section 5

Insert:

designated infringement notice provision has the meaning given
by subsection 184(4).

59 Before paragraph 184(1A)(aaa)

Insert:

(aaaa) a designated infringement notice provision (see
subsection (4));

60 After subsection 184(1A)

Insert:

(1B) Despite subsection (1), an infringement notice relating to the
alleged contravention of a designated infringement notice
provision may only be given to a person by the AUSTRAC CEO.

(1C) The AUSTRAC CEO must not issue an infringement notice
relating to a contravention of subsection 32(1), 41(2), 43(2), 45(2)
or 49(2) unless the AUSTRAC CEO considers that issuing such a
notice is appropriate in the particular case after taking into account:

- (a) the nature and extent of the contravention; and
- (b) the seriousness of the contravention; and
- (c) the circumstances in which the contravention took place; and
- (d) any other matter the AUSTRAC CEO considers to be
relevant.

61 At the end of section 184

Add:

(4) In this Act:

designated infringement notice provision means any of the following provisions:

- (a) subsection 32(1) (which deals with customer identification procedures to be carried out by reporting entities);
- (b) subsection 41(2) (which deals with reporting certain suspicious matters);
- (c) subsection 43(2) (which deals with reporting a threshold transaction);
- (d) subsection 45(2) (which deals with reporting an international funds transfer instruction);
- (e) subsection 47(2) (which deals with reporting on compliance with the Act and other instruments);
- (f) subsection 49(2) (which deals with providing further information on request);
- (g) subsection 116(2), (3) or (4) (which deal with making and retaining certain records).

62 After section 186A

Insert:

186B Amount of penalty—breaches of designated infringement notice provisions

- (1) The penalty to be specified in an infringement notice for an alleged contravention of a designated infringement notice provision by a body corporate must be a pecuniary penalty equal to 60 penalty units.
- (2) The penalty to be specified in an infringement notice for an alleged contravention of a designated infringement notice provision by a person other than a body corporate must be a pecuniary penalty equal to 12 penalty units.

63 Subsection 191(2)

Repeal the subsection, substitute:

- (2) The AUSTRAC CEO may give the reporting entity a written direction requiring the reporting entity to do one or both of the following:

- (a) to take specified action directed towards ensuring that the reporting entity does not contravene the civil penalty provision, or is unlikely to contravene the civil penalty provision, in the future;
- (b) in the case of a contravention of subsection 43(2), 45(2) or 47(2)—to take specified action to remedy the contravention by giving the relevant report to the AUSTRAC CEO within a period specified in the direction.

64 Application of amendment

Paragraph 191(2)(b) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* as in force after the commencement of this item applies in relation to a contravention that occurs on or after that commencement.

65 Subsection 191(3)

Omit “subsection (2)”, substitute “paragraph (2)(a)”.

66 After subsection 191(3)

Insert:

(3A) The AUSTRAC CEO:

- (a) must not act under paragraph (2)(b) if it appears to the AUSTRAC CEO that the contravention occurred more than 24 months before the day on which a direction would be issued; and
- (b) must not act under paragraph (2)(b) unless the AUSTRAC CEO has:
- (i) assessed the risks that have arisen in view of the contravention; and
 - (ii) determined that giving a direction under that paragraph is an appropriate and proportionate response in the circumstances.

67 After subsection 199(2)

Insert:

Person leaving or arriving in Australia—seizing physical currency

- (2A) A police officer or a customs officer may seize physical currency produced to the officer under paragraph (1)(f) or (2)(d) if:
- (a) the police officer or customs officer has reasonable grounds to suspect that the physical currency may afford evidence as to the commission of an offence against section 53; or
 - (b) the police officer or customs officer has reasonable grounds to suspect that the physical currency may be of interest under subsection (14).

68 Subsection 199(3)

Repeal the subsection, substitute:

Powers of examination and search

- (3) A police officer or a customs officer may, with such assistance as is reasonable and necessary, examine an article which a person has with him or her if:
- (a) the person:
 - (i) is about to leave Australia or has arrived in Australia; or
 - (ii) is about to board or leave, or has boarded or left, any ship or aircraft; and
 - (b) either:
 - (i) the officer is seeking to find out whether the person has with him or her any physical currency in respect of which a report under section 53 is required; or
 - (ii) the officer has reasonable grounds to suspect that the person has with him or her any physical currency that may be of interest under subsection (14).

69 Subsection 199(4)

Omit “for the purpose of finding out whether the person has with him or her any physical currency in respect of which a report under section 53 is required,”.

70 Paragraph 199(4)(d)

Repeal the paragraph, substitute:

- 1 (d) the officer has reasonable grounds to suspect that there is on
2 the person, or in clothing being worn by the person:
3 (i) physical currency in respect of which a report under
4 section 53 is required; or
5 (ii) physical currency that may be of interest under
6 subsection (14).

7 **71 Subsection 199(5)**

8 Repeal the subsection, substitute:

- 9 (5) A police officer or a customs officer may seize physical currency
10 found in the course of an examination or search under
11 subsection (3) or (4) if:
12 (a) the police officer or customs officer has reasonable grounds
13 to suspect that the physical currency may afford evidence as
14 to the commission of an offence against section 53; or
15 (b) the police officer or customs officer has reasonable grounds
16 to suspect that the physical currency may be of interest under
17 subsection (14).

18 **72 Subsections 199(8), (9) and (10)**

19 Repeal the subsections, substitute:

- 20 (8) A police officer or a customs officer may, with such assistance as
21 is reasonable and necessary:
22 (a) board a ship or aircraft; or
23 (b) examine or search the ship or aircraft, and any goods found
24 on the ship or aircraft;
25 for the purpose of finding out whether there is at or in the place, or
26 in the goods:
27 (c) any physical currency in respect of which a report under
28 section 53 is required; or
29 (d) any physical currency that may be of interest under
30 subsection (14).

31 *Entry to eligible places*

- 32 (9) A police officer or a customs officer may, with such assistance as
33 is reasonable and necessary:

- 1 (a) go onto or enter any eligible place; and
2 (b) examine the place, and any goods found at or in it;
3 for the purpose of finding out whether there is at or in the place, or
4 in the goods:
5 (c) any physical currency in respect of which a report under
6 section 53 is required; or
7 (d) any physical currency that may be of interest under
8 subsection (14).

9 *Seizure*

- 10 (10) A police officer or a customs officer may seize physical currency
11 found in the course of an examination or search under
12 subsection (8) or (9) if:
13 (a) the police officer or customs officer has reasonable grounds
14 to suspect that the physical currency may afford evidence as
15 to the commission of an offence against section 53; or
16 (b) the police officer or customs officer has reasonable grounds
17 to suspect that the physical currency may be of interest under
18 subsection (14).

19 **73 At the end of section 199**

20 Add:

21 *Civil penalty*

- 22 (12) If a person is subject to a requirement under subsection (1) or (2),
23 the person must not engage in conduct that breaches the
24 requirement.
25 (13) Subsection (12) is a civil penalty provision.

26 *Currency of interest*

- 27 (14) For the purposes of this section, physical currency may be of
28 interest if the physical currency:
29 (a) may be relevant to the investigation of, or prosecution of a
30 person for, an offence against a law of the Commonwealth or
31 of a State or Territory; or

- (b) may be of assistance in the enforcement of the *Proceeds of Crime Act 2002* or regulations under that Act; or
- (c) may be of assistance in the enforcement of a law of a State or Territory that corresponds to the *Proceeds of Crime Act 2002* or regulations under that Act.

74 After subsection 200(13)

Insert:

- (13A) A police officer or customs officer may seize a bearer negotiable instrument if:
- (a) the bearer negotiable instrument:
 - (i) is produced to a police officer or a customs officer under subsection (1) or (2); or
 - (ii) is found by a police officer or a customs officer in the course of an examination under subsection (4), (5), (6), (7), (8) or (9); and
 - (b) the police officer or customs officer has reasonable grounds to believe that the bearer negotiable instrument:
 - (i) may be relevant to the investigation of, or prosecution of a person for, an offence against a law of the Commonwealth or of a State or Territory; or
 - (ii) may be of assistance in the enforcement of the *Proceeds of Crime Act 2002* or regulations under that Act; or
 - (iii) may be of assistance in the enforcement of a law of a State or Territory that corresponds to the *Proceeds of Crime Act 2002* or regulations under that Act.

75 At the end of section 200

Add:

Civil penalty

- (15) If a person is subject to a requirement under subsection (1) or (2), the person must not engage in conduct that breaches the requirement.
- (16) Subsection (15) is a civil penalty provision.

Part 6—Revision of definitions

***Anti-Money Laundering and Counter-Terrorism Financing
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76 Section 5 (paragraph (a) of the definition of *eligible place*)

Repeal the paragraph.

77 Section 5 (at the end of the definition of *investigating officer*)

Add:

; or (f) an Australian Commission for Law Enforcement Integrity officer.

78 Section 5 (definition of *signatory*)

Repeal the definition, substitute:

signatory, in relation to an account with an account provider, means the account holder or a person authorised by the account holder to manage or exercise effective control of the account, whether alone or jointly with one or more other persons.

79 Section 5 (definition of *stored value card*)

Repeal the definition, substitute:

stored value card means a thing (whether real or virtual):

- (a) that stores monetary value in a form other than physical currency; or
- (b) that gives access to monetary value stored in a form other than physical currency; or
- (c) that is declared to be a stored value card by the AML/CTF Rules;

but does not include:

- (d) a debit card or a credit card (whether real or virtual) linked to an account provided by a financial institution; or
- (e) unless declared under paragraph (c):

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- 1 (i) a thing that is intended to give access to monetary value
2 in a debit card or credit card account provided by a
3 financial institution; or
4 (ii) a gaming chip or token; or
5 (iii) a thing that stores, or gives access to, digital currency;
6 or
7 (f) a thing that, under the AML/CTF Rules, is taken not to be a
8 stored value card.

Part 7—Other regulatory matters

***Anti-Money Laundering and Counter-Terrorism Financing
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80 Paragraph 212(1)(a)

After “eligible collected information”, insert “or AUSTRAC information”.

81 After paragraph 212(1)(a)

Insert:

- (aa) to provide access to, and to share, AUSTRAC information to support domestic and international efforts to combat money laundering and terrorism financing and other serious crimes; and

82 After paragraph 212(1)(d)

Insert:

- (da) to facilitate gaining access on a timely basis to the financial, administrative and law enforcement information that the AUSTRAC CEO requires to properly undertake the AUSTRAC CEO’s financial intelligence functions; and

83 After paragraph 212(1)(f)

Insert:

- ; and (g) to do anything that is incidental or conducive to the performance of a function referred to in a preceding paragraph.

84 After subsection 212(3)

Insert:

- (3A) In considering an exemption or modification under or in relation to the operation of this Act that could reasonably be expected to have an impact on the risk associated with money laundering or the financing of terrorism as that risk applies to a designated service,

1 the AUSTRAC CEO must be satisfied that the risk associated with
2 the proposed exemption or modification is low.

3 **85 Subsection 212(5)**

4 After “(3)”, insert “, (3A)”.