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# Update Summary

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## **ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING**

**Grady and Beatty**

### **Highlights**

- The *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) amended; and
- New cross-references added from the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No 1)* (Cth) to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth).

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

The *Anti-Money Laundering and Counter-Terrorism Act 2006* (Cth) (AML/CTF Act) has been amended by the commencement of provisions from two Acts recently. A brief outline is set out below.

The relevant provisions of the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* (Cth), being Act No 197 of 2012, that amend the AML/CTF Act, came into force on 12 March 2014. These amendments are consequential on the commencement of the principal amendments in Sch 1–4 relating to the Australian Privacy Principles, credit reporting, privacy codes and other amendments to the *Privacy Act 1988* (Cth). These amendments primarily replace references to the IPPs or NPPS with the APPs and insert new definitions, including certain credit reporting terms.

The AML/CTF Act was also amended by the commencement of relevant provisions in the *Crimes Legislation Amendment (Law Enforcement Integrity, Vulnerable Witness Protection and Other Measures) Act 2013* (Cth), being Act No 74 of 2013, which also commenced on 12 March 2014. According to the Explanatory Statement that accompanied the Bill, the following excerpt sets out the purpose of these amendments:

The purpose of these anti-money laundering amendments to the AML-CTF Act is to ensure that review of decisions of the Australian Transaction Reports and Analysis Centre (AUSTRAC) is efficient and effective, strengthen existing offences and add the Clean Energy Regulator and the Integrity Commission of Tasmania as designated agencies.

Schedule 4 amends the AML-CTF Act to strengthen the Commonwealth anti-money laundering and counter-terrorism financing (AML-CTF) legislative framework.

In summary, the amendments in Schedule 4 will:

- ensure that AUSTRAC information disclosed by non-designated Commonwealth agencies is granted appropriate privacy protections
- enable AUSTRAC to conduct internal review of its decisions concerning external audits and remedial directions to achieve a more timely and cost effective dispute resolution process
- create an exception to the offence of providing a designated service to a person who is using a false name, where the person is using a legitimate false identity
- extend offences for providing false or misleading information under the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007* (No. 1)
  - add the Clean Energy Regulator and the Integrity Commission of Tasmania to the list of designated agencies that are authorised to access AUSTRAC data, and

- enable AUSTRAC to engage secondees from the private sector including persons with relevant professional, academic and/or industry experience.

The Bill will enable AUSTRAC to share financial intelligence information with the Integrity Commission of Tasmania (Commission) and the Clean Energy Regulator (CER), improving information sharing between these agencies.

Enabling CER to access the financial intelligence data holdings of AUSTRAC will mitigate the risk of money laundering through tradeable carbon emission units. The CER's access to AUSTRAC data will assist it to prevent organised criminal groups from misusing the carbon trading scheme to launder illicit funds. Enabling the Commission to access AUSTRAC information will enhance Commission's investigative abilities, in line with those of similar agencies in other jurisdictions.

In addition to the legislative amendments, extensive cross-references have been inserted from the AML/CTF Rules to the AML/CTF Act for ease of navigation.