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Update Summary

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ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING

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Highlights

- The *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No 1)* (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), consequent upon the above amendments.

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Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No 1) (Cth)

The *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No 1) (Cth)* has been amended by the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2014 (No 3) (Cth)*, which was registered on 19 May 2014. Schedule 1 commenced on the day after registration, while Sch 2, which contains the amendments to the Chapters in relation to customer due diligence, commenced on 1 June 2014. According to the Explanatory Statement that accompanied the instrument, the purpose of the amendment is outlined in the following excerpt:

2. The customer due diligence (CDD) amendments to the AML/CTF Rules strengthens the AML/CTF regime of Australia by enabling the following issues to be addressed:
 - (a) The reduction in Australia's revenue base resulting from a lack of accurate or verified customer information has enabled information regarding organised crime, terrorist and other organisations to be hidden from, or misrepresented to, financial institutions and, ultimately, government agencies;
 - (b) Adverse impacts on Australia's national security whereby financial institutions may inadvertently facilitate transactions that result in tax evasion, money laundering or terrorism financing as organised criminals and money launderers use the corporate veil to conceal their ownership and controlling interest in companies; and
 - (c) Failure to meet Australia's international obligations if Australia's regulatory approach is inconsistent with endorsed international standards, thereby leaving Australia's financial system vulnerable to serious and organised crime, such as drug trafficking, fraud, tax evasion and other criminal and corrupt activities....
5. FATF identified a number of deficiencies in the anti-money laundering and terrorism financing regime of Australia in regard to customer due diligence (CDD):
 - (a) There is no requirement to take reasonable measures to understand the ownership and control structure of a customer that is a legal person or arrangement;
 - (b) There is no comprehensive requirement to identify and verify beneficial owners of a customer that is a legal person or arrangement;
 - (c) There is no requirement for reporting entities to determine whether the customer is acting on behalf of another person and, if so, to take reasonable steps to verify the identity of that other person;

- (d) There is no specific requirement for reporting entities to identify and verify the settlor of a trust;
- (e) There is no specific requirement to apply a range of measures in high-risk situations and some enhanced due diligence measures are not clearly distinguishable from normal CDD measures. Reporting entities are not required to take specific additional measures for customers (or their beneficial owners) who are politically exposed persons (PEPs);
- (f) There is no requirement to collect information on the purpose and intended nature of the business relationship;
- (g) The obligations on reporting entities concerning record-keeping requirements regarding documents collected as part of the processes of identification, verification and updating of customers are inadequate.

...

9. In addition to the amendments relating to CDD, the Instrument also makes amendments to privacy notices contained in the AML/CTF Rules Compilation (Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)) and to the definitions of 'certified copy' and 'certified extract' contained in Chapter 1.

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Consequent upon the amendments to the AML/CTF Rules, a number of cross-references in the principle Act have been updated.