



# **Financial Transaction Reports Amendment Act 2006**

**Act No. 134 of 2006 as amended**

This compilation was prepared on 18 December 2006

**[This Act was amended by Act No. 170 of 2006]**

**Amendment from Act No. 170 of 2006**

[Schedule 1 (item 147) amended subsection 2(1) (item 2)]

[Schedule 1 (item 147) commenced immediately after 9 November 2006]

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# **An Act to amend the *Financial Transaction Reports Act 1988*, and for related purposes**

[Assented to 9 November 2006]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Financial Transaction Reports Amendment Act 2006*.

## **2 Commencement**

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

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	9 November 2006
2. Schedule 1	Immediately after the commencement of item 10 of Schedule 9 to the <i>Anti-Terrorism Act (No. 2) 2005</i> . However, if section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences before 14 December 2006, the provision(s) do not commence at all.	Does not commence

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

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- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

### **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Financial Transaction Reports Act 1988**

### **1 Subsection 3(1) (definition of *account*)**

Before “Part VIA”, insert “Division 3A of Part II or”.

### **2 Before section 17FA**

Insert:

#### **17FAA Definition of *account***

In this Division:

*account* includes:

- (a) a credit card account; and
- (b) a loan account (other than a credit card account); and
- (c) an account of money held in the form of units in:
  - (i) a cash management trust; or
  - (ii) a trust of a kind prescribed by the regulations.

To avoid doubt, it is immaterial whether:

- (d) an account has a nil balance; or
- (e) any transactions have been allowed in relation to an account.

### **3 Paragraph 17FA(1)(a)**

Omit “a cash dealer”, substitute “an ADI”.

### **4 Paragraph 17FA(1)(b)**

Repeal the paragraph, substitute:

- (b) the ADI is acting on behalf of, or at the request of, another person who is not an ADI;

### **4A After subsection 17FA(1)**

Insert:

(1A) For the purposes of paragraph (1)(b), if:

- (a) an ADI (the *first ADI*) is acting on behalf of, or at the request of, another ADI (the *second ADI*); and

- (b) the second ADI is (whether or not as a result of one or more previous applications of this section) acting on behalf of, or at the request of, a person who is not an ADI;

then:

- (c) the first ADI is taken to be acting on behalf of that person; and
- (d) for the purposes of providing customer information in relation to that person, the first ADI is entitled to rely on the information provided by the second ADI.

**5 Paragraph 17FA(2)(a)**

Omit “a cash dealer”, substitute “an ADI”.

**6 Paragraph 17FA(2)(a)**

Omit “the cash dealer”, substitute “the ADI”.

**7 Paragraph 17FA(2)(b)**

Omit “a cash dealer” (wherever occurring), substitute “an ADI”.

**8 Paragraph 17FA(2)(b)**

Omit “the cash dealer”, substitute “the ADI”.

**9 Subsection 17FA(3) (definition of *customer information*)**

Repeal the definition, substitute:

*customer information*, in relation to an international funds transfer instruction transmitted out of Australia, means the following information about the ordering customer on whose behalf, or at whose request, an ADI sends the instruction:

- (a) the ordering customer’s name;
- (b) any one of the following:
  - (i) the ordering customer’s full business or residential address (not being a post office box);
  - (ii) if the ordering customer is an individual—the ordering customer’s date of birth and the country and the town, city or locality of the ordering customer’s birth;
  - (iii) a unique identification number given to the ordering customer by the Commonwealth or an authority of the

- Commonwealth (for example, an Australian Business Number or an Australian Company Number);
- (iv) a unique identification number given to the ordering customer by a foreign government;
  - (v) a unique identification number given to the ordering customer by the ADI that the ordering customer originally asked to send the instruction;
- (c) either:
- (i) if the money is, or is to be, transferred from a single account held by the ordering customer with the ADI that the ordering customer originally asked to send the instruction—the account number; or
  - (ii) in any other case—a unique reference number assigned to the instruction by the ADI that the ordering customer originally asked to send the instruction.

### **10 Subsection 17FA(3)**

Insert:

*unique reference number*, for an international funds transfer instruction, means a combination of any or all of the following:

- (a) letters;
- (b) digits;
- (c) characters;
- (d) symbols;

which distinguishes the instruction in a way that, either:

- (e) alone; or
- (f) in conjunction with any other information in the instruction;

enables the ADI that the ordering customer originally asked to send the instruction to identify the ordering customer.

Examples:

- (a) a combination of a BSB and account number;
- (b) a reference number generated by the ADI that the ordering customer originally asked to send the instruction.

### **11 Paragraph 17FB(1)(a)**

Omit “a cash dealer”, substitute “an ADI”.

### **12 Subsection 17FB(2)**

Omit “the cash dealer” (wherever occurring), substitute “the ADI”.

Note: The heading to subsection 17FB(2) is altered by omitting “*cash dealer*” and substituting “*ADI*”.

**13 Subsection 17FB(4)**

Omit “The cash dealer”, substitute “The ADI”.

**14 Subsection 17FB(4)**

Omit “the cash dealer’s”, substitute “the ADI’s”.

Note: The heading to subsection 17FB(4) is altered by omitting “*cash dealer*” and substituting “*ADI*”.

**15 Subsection 17FB(5)**

Omit “a cash dealer”, substitute “an ADI”.

**16 Subsection 17FB(5)**

Omit “the cash dealer”, substitute “the ADI”.

**16A Subsection 17FB(6) (subparagraph (b)(ii) of the definition of *customer information*)**

Omit “date and place of birth”, substitute “date of birth and the country and the town, city or locality of the ordering customer’s birth”.

**17 Subsection 17FB(6) (subparagraph (c)(ii) of the definition of *customer information*)**

Repeal the subparagraph, substitute:

- (ii) a unique reference number assigned to the instruction by the ordering organisation.

**18 Subsection 17FB(6)**

Insert:

*unique reference number*, for an international funds transfer instruction, means a combination of any or all of the following:

- (a) letters;
- (b) digits;
- (c) characters;
- (d) symbols;

which distinguishes the instruction in a way that, either:

- (e) alone; or
- (f) in conjunction with any other information in the instruction; enables the ordering organisation to identify the ordering customer.

Examples:

- (a) a combination of a BSB and account number;
- (b) a reference number generated by the ordering organisation.

## **19 At the end of Division 3A**

Add:

### **17FC Transmission into or out of Australia—intermediaries**

This Division does not require the provision of customer information in relation to an international funds transfer instruction if:

- (a) the instruction is transmitted by an ADI into or out of Australia; and
- (b) the transmission into or out of Australia occurs in the course of, and for the purpose of, the transmission of the instruction by or on behalf of another financial organisation from a place outside Australia to another place that is also outside Australia.

## **20 Paragraph 29(4)(ba)**

Omit “a cash dealer”, substitute “an ADI”.

## **21 Section 42A**

After “3A”, insert “, 3AA”.