2019

The Parliament of the

Commonwealth of Australia

HOUSE OF REPRESENTATIVES

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| **EXPOSURE DRAFT** |

Currency (Restrictions on the Use of Cash) (Consequential Amendments and Transitional Provisions) Bill 2019

No. , 2019

(Treasury)

A Bill for an Act to deal with consequential and transitional matters in connection with the *Currency (Restrictions on the Use of Cash) Act 2019*, and for related purposes

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A Bill for an Act to deal with consequential and transitional matters in connection with the *Currency (Restrictions on the Use of Cash) Act 2019*, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act is the *Currency (Restrictions on the Use of Cash) (Consequential Amendments and Transitional Provisions) Act 2019*.

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.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this Act | The day after the end of the period of 12 months beginning on the day the *Currency (Restrictions on the Use of Cash) Act 2019* commences.  However, the provisions do not commence at all if that Act does not commence. |  |

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendments

Anti‑Money Laundering and Counter‑Terrorism Financing Act 2006

1 Section 5 (paragraph (c) of the definition of *non‑reportable transaction*)

Omit “not a threshold transaction”, substitute “neither a threshold transaction nor a notifiable transaction”.

2 Section 5

Insert:

***notifiable transaction*** means:

(a) if:

(i) the regulations provide that this definition applies to a specified transaction involving money; and

(ii) the regulations provide that a specified amount is the transaction threshold for the specified transaction;

the specified transaction, where the total amount transferred is not less than the transaction threshold for the transaction; or

(b) if:

(i) the regulations provide that this definition applies to a specified transaction involving digital currency; and

(ii) the regulations provide that a specified amount is the transaction threshold for the specified transaction;

the specified transaction, where the total amount transferred is not less than the transaction threshold for the transaction; or

(c) if:

(i) the regulations provide that this definition applies to a specified transaction involving the transfer of property; and

(ii) the regulations provide that a specified amount is the transaction threshold for the specified transaction;

the specified transaction, where the total value transferred is not less than the transaction threshold for the transaction.

Note 1: See also section 18 (translation of foreign currency to Australian currency).

Note 2: See also section 19 (translation of digital currency to Australian currency).

Note 3: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

3 Section 5 (definition of *threshold transaction*)

Repeal the definition, substitute:

***threshold transaction*** means a transaction involving the transfer of physical currency, where the total amount of physical currency transferred is not less than $10,000.

Note: See also section 18 (translation of foreign currency to Australian currency).

4 Section 40

After “a designated service that involves a threshold transaction”, insert “or a notifiable transaction”.

5 Division 3 of Part 3 (heading)

Repeal the heading, substitute:

Division 3—Threshold transactions and notifiable transactions

6 After paragraph 43(1)(a)

Insert:

(aa) either:

(i) the reporting entity is an ADI and the service is covered by item 3, 4 or 5 of table 1 in section 6; or

(ii) the service is covered by item 50 of that table (regardless of whether the reporting entity is an ADI); and

7 After section 43

Insert:

43A Reports of notifiable transactions

Scope

(1) This section applies to a reporting entity if:

(a) the reporting entity commences to provide, or provides, a designated service to a customer; and

(b) the provision of the service involves a notifiable transaction.

Report

(2) The reporting entity must, within 10 business days after the day on which the transaction takes place, give the AUSTRAC CEO a report of the transaction.

(3) A report under subsection (2) must:

(a) be in the approved form; and

(b) contain such information relating to the transaction as is specified in the AML/CTF Rules.

Note 1: For additional rules about reports, see section 244.

Note 2: Section 49 deals with the provision of further information, and the production of documents, by the reporting entity.

Civil penalty

(4) Subsection (2) is a civil penalty provision.

8 Subsection 49(1)

Omit “43 or 45”, substitute “43, 43A or 45”.

9 Subparagraph 49(1)(i)(ii)

Omit “43 or 45”, substitute “43, 43A or 45”.

10 Paragraph 49(1B)(a)

Omit “43 or 45”, substitute “43, 43A or 45”.

11 Section 51

Omit “43, 45”, substitute “43, 43A, 45”.

12 After subparagraph 51G(3)(c)(i)

Insert:

(ia) section 43A (notifiable transaction reports);

13 Subparagraph 122(3)(ga)(i)

Omit “43 or 45”, substitute “43, 43A or 45”.

14 Section 142 (heading)

Repeal the heading, substitute:

142 Conducting transactions so as to avoid reporting requirements relating to certain transactions

15 Paragraph 142(1)(b)

Omit “threshold transaction that would have been required to have been reported under section 43”, substitute “transaction that would have been required to have been reported under section 43 or 43A”.

16 Subsection 142(2)

Omit “threshold transaction that would have been required to have been reported under section 43”, substitute “transaction that would have been required to have been reported under section 43 or 43A”.

17 Subsection 184(1C)

Omit “43(2), 45(2) or 49(2)”, substitute “43(2), 43A(2), 45(2) or 49(2)”.

18 Subsection 184(4) (after paragraph (c) of the definition of *designated infringement notice provision*)

Insert:

(ca) subsection 43A(2) (which deals with reporting a notifiable transaction);

19 Paragraph 191(2)(b)

Omit “43(2), 45(2) or 47(2)”, substitute “43(2), 43A(2), 45(2) or 47(2)”.

Financial Transaction Reports Act 1988

20 Subsection 3(1) (definition of *significant cash transaction*)

Repeal the definition, substitute:

***significant cash transaction*** means a cash transaction that:

(a) occurs before the commencement of the *Currency (Restrictions on the Use of Cash) (Consequential Amendments and Transitional Provisions) Act 2019*; and

(b) involves the transfer of currency of not less than $10,000 in value.

Part 2—Application, saving and transitional provisions

21 Application

(1) The amendments made by items 1 to 19 of this Schedule apply only in relation to transactions that take place after the commencement of this Schedule.

(2) To avoid doubt, subsection 43(2) of the *Anti‑Money Laundering and Counter‑Terrorism Financing Act 2006* applies, despite item 6, in relation to a transaction that takes place before the commencement of this Schedule and that was, at the time, a threshold transaction.