



Australian Government

**Australian Transaction Reports
and Analysis Centre**

Explanatory note for consultation

Subsection 247(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) allows exemption from a specified provision of the AML/CTF Act in relation to a designated service that is provided in circumstances specified in the Anti-Money Laundering and Counter-Terrorism Rules (Rules).

These draft Rules exempt from specified provisions of the Act, those persons who in the capacity of a debt collector, provide certain designated services.

Due to the nature of debt collection, AUSTRAC considers it an unnecessary financial and administrative burden for debt collectors to comply with all the requirements of the AML/CTF Act.

These draft Rules do not remove, when appropriate, the obligation on debt collectors to make suspicious matter reports under section 41 of the AML/CTF Act.



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Draft Anti-Money Laundering and Counter-Terrorism Financing Rules relating to debt collection

1. These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 247(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
2. For subsection 247(4), each class of provision of the AML/CTF Act contained in the following table is specified as not applying to a designated service provided in the circumstances as set out in paragraph 3 below:

Class of provision	Application
Part 2, Division 1	Whole division
Part 2, Division 2	Whole division
Part 2, Division 3	Whole division
Part 2, Division 4	Whole division
Part 2, Division 5	Whole division
Part 2, Division 6	Whole division
Part 2, Division 7	Sections 37, 38
Part 3, Division 3	Section 43 only
Part 3, Division 4	Section 45 only
Part 3, Division 5	Whole division
Part 3, Division 6	Section 50 only
Part 7, Division 2	Whole division
Part 7, Division 3	Sections 83 and 84 only

3. The exemption in paragraph 2 only applies to a person, who, in the capacity of a debt collector, provides any of the following designated services as described in table 1 of subsection 6(2) of the AML/CTF Act:

- (a) item 6;
- (b) item 7;
- (c) item 8;
- (d) item 31;
- (e) item 32;
- (f) item 51;
- (g) item 53.

4. In these Rules:

(1) 'debt' means an amount of money owed, where:

- (a) the provider of the money (account provider) has terminated, cancelled, written off or charged off debt, by reason of the customer's default or continuing default in repaying the money; and
- (b) the account provider has declined the provision of further credit to the customer under the account.

(2) 'debt collector' means a person who collects debt in the course of carrying on a business of collecting debt.

Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the National Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.privacy.gov.au> or call 1300 363 992.