



Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Determination 2011¹

*Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery
Levy Act 2011*

I, BRENDAN O'CONNOR, Minister for Home Affairs, make this Determination under subsection 8(1) of the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011*.

Dated [INSERT DATE]

BRENDAN O'CONNOR
Minister for Home Affairs

¹ All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.

1 Name of Determination

This Determination is the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Determination 2011*.

2 Commencement

This Determination commences on the day after it is registered.

3 Definitions

In this Determination:

Act means the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011*.

AML/CTF Act means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

AUSTRAC has the same meaning as in the AML/CTF Act.

AUSTRAC CEO has the same meaning as in the AML/CTF Act.

census date, in relation to the financial year, has the same meaning as in the Act.

earnings, in relation to a leviable entity, means the earnings of that entity, for a year ending in the previous financial year, the details of which have been recorded in accordance with the requirements for the roll maintained by the AUSTRAC CEO under section 51C of the AML/CTF Act.

financial institution has the same meaning as in the AML/CTF Act.

group of leviable entities means all leviable entities that are related bodies corporate.

financial year means the financial year beginning on 1 July 2011.

foreign company has the same meaning as in the *Corporations Act 2001*.

leviable entity, in relation to the financial year, has the same meaning as in the Act.

leviable report, in relation to a leviable entity, means one of the following reports given to the AUSTRAC CEO during the calendar year beginning on 1 January 2010:

- (a) a report given by the leviable entity under subsections 43(2) or 45(2) of the AML/CTF Act;
- (b) a report given by the leviable entity under subsections 7(3) or 17B(3) of the *Financial Transaction Reports Act 1988*; or
- (c) a report of the type referred to in paragraphs (a) and (b) that was given by another leviable entity that, as at the time the report was given, was a remittance affiliate of the leviable entity.

Note : Reports under subsections 43(2) or 45(2) of the AML/CTF Act are reports of threshold transactions or international funds transfer instructions respectively.

previous financial year means the financial year beginning on 1 July 2010.

related bodies corporate has the same meaning as in the *Corporations Act 2001*.

remittance affiliate means a leviable entity that:

- (a) provides a designated service covered by item 31 or 32 of table 1 in section 6 of the AML/CTF Act; and
- (b) provides that service as part of a network of persons of a kind referred to in item 32A of that table operated by another leviable entity.

Note : Remittance affiliate is defined in the Combating the Financing of People Smuggling and Other Measures Bill 2011

subsidiary has the same meaning as in the *Corporations Act 2001*.

4 Amount of levy

- (1) For subsection 9(1) of the Act, the amount of levy payable for the financial year by a leviable entity is to be calculated in accordance with the following formula:

$$\begin{array}{ccccc} \text{base} & & \text{large entity} & & \text{transaction} \\ \text{component} & + & \text{component} & + & \text{reporting} \\ & & & & \text{component} \end{array}$$

Note : Subsection 9(5) of the Act provides that if (apart from that subsection) the amount of levy payable by a liable entity would be less than the statutory minimum, the amount of levy payable by the entity is nil. For the financial year, the statutory minimum is \$100.

- (2) Despite subitem (1), for subsection 9(1) of the Act, the amount of levy payable for the financial year by a liable entity that, in the previous financial year:
- (a) provided a designated service or services only in the capacity of a remittance affiliate; and
 - (b) did not provide a designated service in any other capacity;
- is nil.

5 Base component

- (1) The base component for a liable entity is \$284.
- (2) Despite subitem (1), the base component for a liable entity that, as at the census date:
- (a) has fewer than 5 employees; and
 - (b) has a large entity component of nil for the financial year;
- is nil.

6 Large entity component

- (1) The large entity component for a liable entity is:
- (a) for a liable entity that is not a part of a group of liable entities – the relevant amount in the second column of the table below; or
 - (b) for a liable entity that is part of a group of liable entities – the relevant amount in the second column of the table below divided by the number of liable entities in the group.

<i>If the earnings for a liable entity, or the total earnings for a group of liable entities, is ...</i>	<i>... the relevant amount below</i>
Equal to or greater than \$5,000,000,000	\$425,000
Equal to or greater than \$1,000,000,000 but less than \$5,000,000,000	\$350,000

Equal to or greater than \$500,000,000 but less than \$1,000,000,000	\$70,000
Equal to or greater than \$200,000,000 but less than \$500,000,000	\$35,000
Equal to or greater than \$100,000,000 but less than \$200,000,000	\$14,000
Less than \$100,000,000	nil

(2) For the purposes of subitem (1), where a leviable entity is a foreign company only the earnings of that entity which are derived from operations in Australia is to be taken into account in determining the earnings of that entity, or the total earnings of the group of leviable entities of which the entity is a member.

(3) Despite subitem (1), where:

- (a) a leviable entity is a foreign company or a subsidiary of a foreign company; and
- (b) the earnings of that leviable entity which are derived from operations in Australia is less than \$100,000,000; and
- (c) the total earnings of that leviable entity and its related bodies corporate is equal to or greater than \$100,000,000;

then the large entity component for that leviable entity is \$14,000.

7 Transaction reporting component

(1) The transaction reporting component for a leviable entity is to be calculated in accordance with the following formula:

$$\begin{array}{rcl}
 \text{1 cent for each} & & \text{0.0005066 per cent of the value} \\
 \text{leviable report} & + & \text{of the transaction to which the} \\
 & & \text{leviable report relates}
 \end{array}$$

(2) Despite subitem (1), the transaction reporting component does not apply to a leviable report that relates to a transaction that occurred before 1 January 2010.