

EXPOSURE DRAFT

2019

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

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

5 The Parliament of Australia enacts:

6 **1 Short title**

7 This Act is the *Currency (Restrictions on the Use of Cash)*
8 *(Consequential Amendments and Transitional Provisions) Act*
9 2019.

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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 <i>Currency (Restrictions on the Use of Cash) Act 2019</i> 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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

1 **Schedule 1—Amendments**

2 **Part 1—Amendments**

3 *Anti-Money Laundering and Counter-Terrorism Financing*
4 *Act 2006*

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

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

9 **2 Section 5**

10 Insert:

11 ***notifiable transaction*** means:

12 (a) if:

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

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

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

19 or

20 (b) if:

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

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

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

27 or

28 (c) if:

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Schedule 1 Amendments

Part 1 Amendments

- 1 (i) the regulations provide that this definition applies to a
2 specified transaction involving the transfer of property;
3 and
4 (ii) the regulations provide that a specified amount is the
5 transaction threshold for the specified transaction;
6 the specified transaction, where the total value transferred is
7 not less than the transaction threshold for the transaction.

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

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

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

14 **3 Section 5 (definition of *threshold transaction*)**

15 Repeal the definition, substitute:

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

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

21 **4 Section 40**

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

24 **5 Division 3 of Part 3 (heading)**

25 Repeal the heading, substitute:

26 **Division 3—Threshold transactions and notifiable** 27 **transactions**

28 **6 After paragraph 43(1)(a)**

29 Insert:

30 (aa) either:

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Amendments **Schedule 1**
Amendments **Part 1**

- 1 (i) the reporting entity is an ADI and the service is covered
2 by item 3, 4 or 5 of table 1 in section 6; or
3 (ii) the service is covered by item 50 of that table
4 (regardless of whether the reporting entity is an ADI);
5 and

6 **7 After section 43**

7 Insert:

8 **43A Reports of notifiable transactions**

9 *Scope*

- 10 (1) This section applies to a reporting entity if:
11 (a) the reporting entity commences to provide, or provides, a
12 designated service to a customer; and
13 (b) the provision of the service involves a notifiable transaction.

14 *Report*

- 15 (2) The reporting entity must, within 10 business days after the day on
16 which the transaction takes place, give the AUSTRAC CEO a
17 report of the transaction.
- 18 (3) A report under subsection (2) must:
19 (a) be in the approved form; and
20 (b) contain such information relating to the transaction as is
21 specified in the AML/CTF Rules.

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

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

25 *Civil penalty*

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

27 **8 Subsection 49(1)**

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

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Schedule 1 Amendments

Part 1 Amendments

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

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

3 **10 Paragraph 49(1B)(a)**

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

5 **11 Section 51**

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

7 **12 After subparagraph 51G(3)(c)(i)**

8 Insert:

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

10 **13 Subparagraph 122(3)(ga)(i)**

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

12 **14 Section 142 (heading)**

13 Repeal the heading, substitute:

14 **142 Conducting transactions so as to avoid reporting requirements**
15 **relating to certain transactions**

16 **15 Paragraph 142(1)(b)**

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

20 **16 Subsection 142(2)**

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

24 **17 Subsection 184(1C)**

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

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Amendments Schedule 1
Amendments Part 1

1 **18 Subsection 184(4) (after paragraph (c) of the definition of**
2 ***designated infringement notice provision*)**

3 Insert:

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

6 **19 Paragraph 191(2)(b)**

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

8 ***Financial Transaction Reports Act 1988***

9 **20 Subsection 3(1) (definition of *significant cash transaction*)**

10 Repeal the definition, substitute:

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

- 12 (a) occurs before the commencement of the *Currency*
13 *(Restrictions on the Use of Cash) (Consequential*
14 *Amendments and Transitional Provisions) Act 2019*; and
15 (b) involves the transfer of currency of not less than \$10,000 in
16 value.

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Schedule 1 Amendments

Part 2 Application, saving and transitional provisions

1 **Part 2—Application, saving and transitional**
2 **provisions**

3 **21 Application**

- 4 (1) The amendments made by items 1 to 19 of this Schedule apply only in
5 relation to transactions that take place after the commencement of this
6 Schedule.
- 7 (2) To avoid doubt, subsection 43(2) of the *Anti-Money Laundering and*
8 *Counter-Terrorism Financing Act 2006* applies, despite item 6, in
9 relation to a transaction that takes place before the commencement of
10 this Schedule and that was, at the time, a threshold transaction.