



# AUSTRALIAN FINTECH REGULATION 101

## What are the rules, and who enforces them?

This is a basic overview of the main legislation and codes affecting fintech business in Australia (with hyperlinks).

### The rules

### The enforcers

**Anti-Money Laundering and Counter-Terrorism Financing Act:** Providers of some financial services have to identify customers and beneficial owners, report certain transactions, and have an AML/CTF compliance program.

AUSTRAC

**Australian Securities and Investments Commission Act:** Part 2 Division 2 has consumer protection provisions which are basically the same as the Australian Consumer Law but apply to financial services and credit.

ASIC

**Banking Act:** Authorisation from APRA is required for banking business. APRA's power to set prudential standards and supervise banks. The Financial Claims Scheme for depositor protection.

APRA

**Corporations Act:** Chapter 7 (Financial Services) deals with Australian Financial Services Licences (AFSLs) and requirements of licensees including disclosure (FSG, PDS, statements of advice), advertising, conduct, commissions and other remuneration. Credit is not covered (except margin loans). Chapter 5C deals with managed investment schemes.

ASIC

**ePayments Code:** A voluntary code for electronic payment transactions dealing with disclosures such as terms and conditions, other conduct obligations, when customers are liable for transactions, and complaints.

ASIC

**Industry Codes of Practice:** These include the **Code of Banking Practice**, the **Customer Owned Banking Code of Practice**, and the **General Insurance Code of Practice**.

Industry bodies

**Insurance Act:** Authorisation from APRA is required for insurance business. APRA's power to set prudential standards and supervise insurers. The Financial Claims Scheme for policyholder protection.

APRA

**Insurance Contracts Act:** Matters relating to contracts of insurance including duty of utmost good faith, duty of disclosure, standard cover, general provisions of insurance contracts, claims, renewal and cancellation, and subrogation.

ASIC

**National Consumer Credit Protection Act:** Covers consumer credit (not commercial) including residential investment lending, Australian credit licence (ACL) regime, and responsible lending requirements. Also includes the National Credit Code which controls the content of credit contracts and consumer leases, and regulates mortgages, guarantees, account statements, how you can charge interest and fees, default and collections, credit-related insurance, and advertising.

ASIC

**Payment Systems (Regulation) Act:** Regulation of payments systems and purchased payment facilities such as stored value cards.

RBA

**Personal Property Securities Act:** How security interests in personal property are created. Priorities between security interests. When security interests are extinguished. Enforcing security interests. Registration of security interests on the Personal Property Securities Register.

AFSA

**Privacy Act:** General rules relating to collection, use and disclosure of personal information and special rules for credit-related information. (The Privacy (Credit Reporting) Code made under the Act has more detailed requirements in relation to credit information.)

OAIC

**Superannuation (Industry Supervision) Act:** Licensing of responsible superannuation entities, MySuper, operating standards and prudential standards for super funds, governing rules of superannuation entities, in-house asset rules, duties of trustees and investment managers, auditors and actuaries, eligible rollover funds, monitoring and investigation of funds.

APRA ASIC ATO