

EXPLANATORY STATEMENT

Select Legislative Instrument 2007 No. 214

Subject - *Financial Transaction Reports Act 1988*

*Financial Transaction Reports Amendment Regulations 2007
(No. 1)*

Section 43 of the *Financial Transaction Reports Act 1988* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act provides for the establishment of the Australian Transaction Reports and Analysis Centre (AUSTRAC) to monitor financial transactions. The *Financial Transaction Reports Regulations 1990* (the Principal Regulations) set out various matters necessary to give effect to the Act.

The purpose of the Regulations is to remove one provision (regulation 11CA) that was inserted into the Principal Regulations by the *Financial Transaction Reports Amendment Regulations 2006 (No. 1)* as an interim measure pending the enactment of the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006. The Bill received Royal Assent on 12 December 2006.

Details of the Regulations are set out in the Attachment.

The Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

The Minute recommends that Regulations be made in the attached form.

Authority: Section 43 of the *Financial Transaction Reports Act 1988*

Details of the *Financial Transaction Reports Amendment Regulations 2007 (No. 1)*

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Financial Transaction Reports Amendment Regulations 2007 (No. 1)*

Regulation 2 – Commencement

This regulation provides for the Regulations to commence on the day after they are registered. As the effect of the amendments is the removal of a regulation that has been made redundant by later legislation there is no issue about the retrospective commencement of the Regulations.

Regulation 3 – Amendment of *Financial Transaction Reports Regulations 1990*

This regulation provides that the *Financial Transaction Reports Regulations 1990* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 – Amendments

The *Financial Transaction Reports Act 1988* (the FTR Act) was due to be amended on 14 December 2006 by the *Anti-Terrorism Act (No.2) 2005* (the AT 2 Act) to add sections 24E and 24F that set up a register of remittance services. However, the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the AML/CTF Act) also included provisions setting up a register of remittance services outside the FTR Act thereby making proposed sections 24E and 24F of the FTR Act remittance services provisions redundant. The AML/CTF Act received Royal Assent on 12 December 2006 and section 3 of the AML/CTF Act commenced prior to 14 December 2006. The commencement of this section prior to 14 December 2006 meant that proposed sections 24E and 24F of the FTR Act did not ever commence.

Regulation 11CA of the Principal Regulations prescribed particulars which were to be provided by a cash dealer to be included in the register of remittance services. Regulation 11CA of the Principal Regulations was made by the *Financial Transactions Reports Amendment Regulations 2006 (No.1)*. As the provisions to which regulation 11CA did not commence, regulation 11CA of the Principal Regulations is redundant and cannot have any operation.

Item [1] – Regulation 11CA

This item omits regulation 11CA from the Principal Regulations. Regulation 11CA of the Principal Regulations defines the ‘prescribed particulars’ that certain cash dealers are required to provide under paragraphs 24E(1)(a) and 24F(1)(b) of the FTR Act.

Sections 24E and 24F of the FTR Act were inserted by Schedule 9 to the AT 2 Act, but will never commence. As a consequence, regulation 11CA of the Principal Regulations is redundant and may be removed.