

Explanatory Statement – Anti-Money Laundering and Counter-Terrorism Financing Rules for thresholds for certain designated services

Section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) provides that the AUSTRAC Chief Executive Officer (CEO) may, by writing, make AML/CTF Rules prescribing matters required or permitted by any other provision of the Act to be prescribed by the AML/CTF Rules.

Table 1 in section 6 of the AML/CTF Act sets out financial service types of designated services and table 3 sets out gambling service types of designated services.

This explanatory statement concerns the AML/CTF Rules which relate to subsection 39(4) of the AML/CTF Act and specify threshold amounts for certain types of designated services in tables 1 and 3 of section 6 (see below) for the purposes of Division 4 of Part 2 of the AML/CTF Act.

The AML/CTF Rules are registered in the form of numbered chapters and are legislative instruments as defined in section 5 of the *Legislative Instruments Act 2003*.

Chapter 12

Subsection 39(4) of the AML/CTF Act provides that the AUSTRAC CEO may provide through the AML/CTF Rules that a specified provision of Part 2 does not apply to a designated service.

Chapter 12 of the AML/CTF Rules specifies certain threshold amounts for the specified designated service items in tables 1 and 3 of section 6 of the AML/CTF Act. Division 4 of Part 2 of the AML/CTF Act does not apply to designated services described in the items below where they are less than the relevant specified threshold amounts:

- (a) items 17, 25, 26 and 50 of table 1
- (b) item 14 of table 3.

Anticipated impact

These AML/CTF Rules provide a positive impact for reporting entities as they reduce the compliance burden in relation to certain designated services in tables 1 and 3 of section 6 of the AML/CTF Act.

These AML/CTF Rules have the effect of limiting the application of the customer identification requirements, which certain reporting entities would otherwise have been required to apply, until relevant threshold amounts are reached.

A regulatory impact statement in respect of the AML/CTF Act was prepared prior to the passage of that Act. These AML/CTF Rules relate to Division 4 of Part 2 of the AML/CTF Act.

Benefits arising from the AML/CTF Rules

The requirements set out in the Chapter 12 AML/CTF Rules will result in lower or reduced compliance costs as reporting entities are not required to carry out the customer identification procedure where they provide certain types of designated services that fall under relevant thresholds set out in the Rules.

Consultation

AUSTRAC has consulted with the Office of the Privacy Commissioner, the Australian Customs Service, the Australian Federal Police, the Australian Taxation Office and the Australian Crime Commission in relation to these AML/CTF Rules.

AUSTRAC also published a draft of these AML/CTF Rules on its website for public comment. Industry was consulted extensively in the development of these AML/CTF Rules and AUSTRAC considered all comments which were made.

Ongoing consultation

AUSTRAC will continue to consult with stakeholders on the operation of these AML/CTF Rules.