

**Explanatory Statement – Anti-Money Laundering and Counter-Terrorism
Financing Rules for designated remittance arrangements under section 10 of the
AML/CTF Act**

1. Purpose and operation of Anti-Money Laundering and Counter-Terrorism Financing Rules (AML/CTF Rules) for remittance arrangements under section 10 of the AML/CTF Act

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

Section 10 of the AML/CTF Act deals with ‘designated remittance arrangements’ and specifies that such an arrangement is one where a person accepts money or property to be transferred (to an ultimate transferee entity) and/or a person makes transferred money or property available (to an ultimate transferee entity), whether within Australia or internationally. It excludes transactions where the person accepting and/or making available the money or property is an ADI, bank, building society or credit union or person specified in the AML/CTF Rules.

These AML/CTF Rules specify persons for the purposes of excluding them from the definition of a ‘designated remittance arrangement’. They have the effect of excluding lawyers and accountants from the definition of a designated remittance arrangement and, therefore, from items 31 and 32 of table 1 of subsection 6(2) of the AML/CTF Act. This means that, unless they are caught by some other item in table 1 of subsection 6(2) of the AML/CTF Act, entities which carry out transfers of money or property as lawyers or accountants will not be reporting entities under the Act.

2. Notes on sections

Section 1

This section sets out the name of the instrument, i.e. the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No.5)*.

Section 2

This section specifies that the Instrument commences on the day after it is registered.

Section 3

This section contains a schedule which amends the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)* as follows:

Schedule 1

This schedule inserts Chapter 23 ‘Anti-Money Laundering and Counter-Terrorism Financing Rules for designated remittance arrangements’ after Chapter 22 of the AML/CTF Rules.

3. Notes on paragraphs

Paragraph 23.1

This paragraph states that these AML/CTF Rules have been made under section 229 of the AML/CTF Act. Subsection 10(1) of the AML/CTF Act permits the making of these Rules.

Paragraph 23.2

This paragraph specifies a person carrying on a law practice or an accounting practice for the purposes of subparagraphs 10(1)(a)(v) and 10(1)(b)(v) of the AML/CTF Act. This has the effect of excluding only lawyers and accountants from the definition of a designated remittance service and ensuring that they are not caught by the AML/CTF Act as a reporting entity when they undertake activities involving a transfer of money or property which they undertake in the course of providing professional legal services or professional accounting services.

Paragraph 23.3

This paragraph sets out definitions of ‘accounting practice’ and ‘law practice’ for the purposes of Chapter 23.

4. Legislative instruments

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

5. Likely impact

These AML/CTF Rules will have a beneficial impact on businesses which are technically caught by the wide definition of ‘designated remittance arrangement’. In terms of any likely costs to consumers, there is no direct cost.

6. Assessment of benefits

The AML/CTF Rules provide certainty for industry in specifying what a designated remittance arrangement entails. By excluding law practices and accounting practices from the specified designated remittance arrangement compliance costs relevant to

those arrangements for these particular entities will be eliminated if they are providing what would otherwise be a designated remittance arrangement under the AML/CTF Act.

7. 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. In particular, AUSTRAC consulted the Law Council of Australia and the accounting industry peak bodies.

8. Ongoing consultation

AUSTRAC will conduct ongoing consultation with stakeholders on the operation of the AML/CTF Rules.