



Australian Government

**Australian Transaction Reports
and Analysis Centre**

**Explanatory Statement – Anti-Money Laundering and Counter-Terrorism
Financing Rules consolidating the AML/CTF Rules and amending the *AML/CTF
Rules Amendment Instrument 2007 (No. 4)* and the *AML/CTF Rules Amendment
Instrument 2007 (No. 5)***

**1. Purpose and operation of Anti-Money Laundering and Counter-Terrorism
Financing Rules (AML/CTF Rules) consolidating the AML/CTF Rules and
amending the *AML/CTF Rules Amendment Instrument 2007 (No. 4)* and the
*AML/CTF Rules Amendment Instrument 2007 (No. 5)***

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.

Currently the AML/CTF Rules are contained within three Instruments, the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)* (which contains the bulk of the AML/CTF Rules), the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.2)* (dealing with correspondent banking requirements) and the *Anti-Money Laundering and Counter-Terrorism Financing Rules* (which deal with the reportable details for cross-border movements of physical currency, bearer negotiable instruments and the Register of Providers of Designated Remittance Services). These AML/CTF Rules consolidate these Instruments into one document.

These AML/CTF Rules also amend the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2007 (No.4)* and the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2007 (No.5)* by making technical amendments to ensure that the amendments intended to be made by the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No.4)* will have legal effect.

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.7)*.

Section 2

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

Section 3

This section repeals the *Anti-Money Laundering and Counter-Terrorism Financing Rules* and the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 2)*.

Section 4

This section contains Schedule 1 which amends the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)*, Schedule 2 which amends the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2007 (No.4)* and Schedule 3 which amends the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2007 (No. 5)*.

Schedule 1

This schedule amends the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)* to include the AML/CTF rules from the instruments repealed under section 3, which consolidates all AML/CTF Rules into one instrument.

Schedule 2

This schedule amends the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2007 (No. 4)* which inserted reportable details rules for suspicious matters and international funds transfer instructions into the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)*.

Schedule 3

This schedule amends the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2007 (No. 5)* which inserted reportable details rules for threshold transactions into the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)*.

3. Notes on paragraphs

Schedule 1

Paragraph 1

This paragraph omits the note in section 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)* as it refers to instruments repealed by section 3 of this amending instrument.

Paragraph 2

This paragraph inserts the rules from the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 2)* as repealed by section 3 of this amending instrument as a new Part 3.2 of Chapter 3 of the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)*.

Paragraph 3

This paragraph inserts the rules from the *Anti-Money Laundering and Counter-Terrorism Financing Rules* as repealed by section 3 of this amending instrument as a new Chapter 24, Chapter 25, Chapter 26 and Chapter 27 of the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)*.

Schedule 2

This schedule amends the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2007 (No. 4)* which inserted Chapters 17 and 18 into the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)*.

Paragraph 1

This amendment will allow the Australian Business Number of a transferor entity who is an individual to be included in a report about an international funds transfer instruction transmitted out of Australia. A transferor entity is the person who wishes to transfer funds to a person (the ultimate transferee entity).

Paragraph 2

This amendment will allow a transferor entity's account number with a reporting entity to be included in a report about an international funds transfer instruction transmitted out of Australia.

Paragraph 3

This amendment will allow for details of the person outside Australia who receives the funds transfer instruction from Australia to be included in a report about an international funds transfer instruction transmitted out of Australia.

Paragraph 4

This amendment will allow the account details of the ultimate transferee entity to be included in a report about an international funds transfer instruction transmitted out of Australia when the transfer is effected by funds being deposited into that account.

This amendment will also allow any reference number assigned to the funds transfer instruction by the reporting entity to be included in a report about an international funds transfer instruction transmitted out of Australia.

Paragraph 5

This amendment will allow a transferor entity's account number with the person outside Australia who receives the funds transfer instruction to be included in a report about an international funds transfer instruction transmitted into Australia.

Paragraph 6

This amendment will allow for details of the person in Australia who receives the funds transfer instruction from outside Australia to be included in a report about an international funds transfer instruction transmitted into Australia.

Paragraph 7

This amendment will allow the Australian Business Number and the occupation or business description of an ultimate transferee entity who is an individual to be included in a report about an international funds transfer instruction transmitted into Australia.

Paragraph 8

This amendment will allow the account details of the ultimate transferee entity to be included in a report about an international funds transfer instruction transmitted into Australia when the transfer is effected by funds being deposited into that account.

This amendment will also allow any reference number assigned to the funds transfer instruction by the reporting entity to be included in a report about an international funds transfer instruction transmitted into Australia.

Paragraph 9

This amendment will allow details of the person completing a report to be included in a report about an international funds transfer instruction.

Paragraph 10

This amendment will allow the Australian Business Number of a person who is the subject of the report, and who is an individual, to be included in a report about a suspicious matter.

Paragraph 11

This amendment will allow the Australian Business Number of an agent who is an individual to be included in a report about a suspicious matter.

Paragraph 12

This amendment will allow the date of each component of a reportable matter to be included in a report about a suspicious matter.

Paragraph 13

This amendment will allow the date of a transfer, or planned transfer, of money or property to be included in a report about a suspicious matter.

Paragraph 14

This amendment will remove the requirement for details of the person completing report about a suspicious matter from this place in the AML/CTF Rules. These details and others are inserted in a new paragraph 18.3. This reinsertion is further explained in Paragraph 16.

Paragraph 15

This amendment will allow any identifier number or reference number given to a previous report about a suspicious matter in respect of the same person to be included in a report about a new suspicious matter.

Paragraph 16

This amendment will allow details of the person completing a report to be included in a report about a suspicious matter.

Schedule 3

This schedule amends the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2007 (No. 5)* which inserted rules for reportable details for threshold transactions into the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)*.

Paragraph 17

This amendment will allow any “nicknames” or aliases of an individual customer to be included in a threshold transaction report.

Paragraph 18

This amendment will allow any business names of an individual customer to be included in a threshold transaction report.

Paragraph 19

This amendment will allow the postal address of an individual customer to be included in a threshold transaction report.

Paragraph 20

This amendment will allow the postal address of a non-individual customer to be included in a threshold transaction report. It will also remove the requirement to

include a non-individual customer's registered business address from a threshold transaction report.

Paragraph 21

This amendment will allow a reporting entity to describe a customer's occupation, business or principal activity in a threshold transaction report if the reporting entity knows this information but does not know the Australian Bureau of Statistics code applying to the occupation or activity.

Paragraph 22

This amendment will remove certain details to be included in a threshold transaction report from subparagraph 19.3(5). They are replaced in subsections 19.3(7)(a) to (d) by paragraphs 24 to 27, consistently with other details applicable to the reported transaction.

Paragraph 23

This amendment will allow a breakdown of the components of all cash and non-cash items relating to a threshold transaction to be included in a threshold transaction report.

Paragraph 24

This amendment will allow details of cheques involved in reportable transactions involving physical currency to be included in a threshold transaction report.

Paragraph 25

This amendment will allow details of the purpose of reportable transactions involving e-currency to be included in a threshold transaction report.

This amendment will also allow details of cheques involved in reportable transactions involving e-currency to be included in a threshold transaction report.

Paragraph 26

This amendment will allow details of cheques involved in reportable transactions of a kind specified in the regulations involving money to be included in a threshold transaction report. No relevant regulations have yet been made. However, the forms for reporting of threshold transactions need to provide for such details to be included in the event that such regulations are made in the future.

Paragraph 27

This amendment will allow details of cheques involved in reportable transactions of a kind specified in the regulations involving property to be included in a threshold transaction report. No relevant regulations have yet been made. However, the forms

for reporting of threshold transactions need to provide for such details to be included in the event that such regulations are made in the future.

Paragraph 28

This amendment will allow details of the person completing a report to be included in a threshold transaction report and also removes a definition provision which is unnecessary as Chapter 1 of the AML/CTF Rules already makes provision for the relevant definitions.

Paragraph 29

This amendment will allow the Australian Business Number of an individual customer to be included in a threshold transaction report from 12 December 2008.

Paragraph 30

This amendment will allow the Australian Business Number of an individual customer to be included in a threshold transaction report from 1 January 2011.

4. Legislative instruments

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

5. Likely impact

The consolidation of all AML/CTF Rules into one instrument, will have a beneficial impact on businesses, while the AML/CTF Rules which make technical amendments to reportable details which have not commenced in operation, will have little overall detrimental impact. Most of the amendments clarify already existing requirements or allow reporting of alternative details which are more likely to be available to reporting entities. In terms of any likely costs to consumers, there is no direct cost.

6. Assessment of benefits

These AML/CTF Rules provide greater clarity to reporting entities by consolidating all the AML/CTF Rules into one instrument, allow for the reporting of alternative details more likely to be available to reporting entities, and provide clarity as to the reportable details required.

7. Consultation

AUSTRAC considers that industry will support the consolidation of the AML/CTF Rules and the technical amendments, and therefore did not undertake formal consultation.

8. Ongoing consultation

AUSTRAC will conduct ongoing consultation with stakeholders on the operation of the AML/CTF Rules including those affected by these amendments.