



Australian Government

**Australian Transaction Reports
and Analysis Centre**

Explanatory Statement – Amendment of *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*

1. Purpose and operation of Anti-Money Laundering and Counter-Terrorism Financing Rules (AML/CTF Rules) amending Chapter 16 and adding Chapter 51 of the AML/CTF Rules

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

Amendments to Chapter 16

Chapter 16 of the AML/CTF Rules sets out the reportable details for international funds transfer instructions (IFTIs) which must be supplied by reporting entities in an IFTI report which relates to an electronic funds transfer instruction (EFTI).

Currently under subparagraphs 16.2(2) and 16.3(3)(b) of the AML/CTF Rules, where the instruction is a ‘batched instruction’ an entity is required to provide ‘tracing information’ under section 72 of the AML/CTF Act. Tracing information includes an account number or a unique reference number for the instruction. For a ‘non-batched instruction’, a reporting entity is required to include the ‘complete payer information’ which contains a higher level of information under section 71 of the Act.

The amendments to Chapter 16 put in place the same reporting requirements for batched and non-batched instructions. A batched instruction is one that incorporates multiple transaction instructions ‘batched’ into a single file accepted by an authorised deposit-taking institution (ADI) from a payer and passed on or dispatched in a single file by that ADI.

The amendments to Chapter 16 will result in no variance in reporting requirements between batched and non-batched IFTI-E reports as all reporting entities will be required to split batches into individual instructions and report the individual instructions to AUSTRAC, thereby reflecting current industry practice.

The amendments also require reporting entities to provide the contact details of the person who makes the report to AUSTRAC. This brings the Chapter 16 reporting

requirements into line with the other reportable details Chapters in the AML/CTF Rules.

Chapter 51 ‘AML/CTF Rules relating to certain definitions under the AML/CTF Act’

Chapter 51 of the AML/CTF Rules specify Travelex Australia (Travelex) and KEB Australia (KEBA) as being:

- (a) an ‘ordering’, ‘beneficiary’ and ‘financial institution’ under the relevant definitions under the AML/CTF Act; and
- (b) as persons specified not to be a ‘non-financier’ under the relevant definition in the Act.

The effect of this Chapter is to allow Travelex and KEBA to submit IFTIs to AUSTRAC using the IFTI-Electronic (IFTI-E) approved form, rather than the IFTI Designated Remittance Arrangement (IFTI-DRA) approved form.

As a result, both Travelex and KEBA will report IFTIs under Chapter 16 of the AML/CTF Rules (reportable details for international funds transfer instructions (items 1 and 2 in section 46)), rather than Chapter 17 (reportable details for international funds transfer instructions (items 3 and 4 in section 46)), except when Travelex or KEBA act as an agent for another reporting entity which is not regulated under the IFTI-E obligations of the AML/CTF Act. In such instances they will report under the Chapter 17 requirements.

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 2011 (No.2)*.

Section 2

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

Section 3

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

Schedule 1

This schedule amends Chapter 16 and adds Chapter 51.

3. Notes on paragraphs

Chapter 16

Subparagraph 16.2(1)

This subparagraph specifies that a reporting entity sending an instruction under subsection 70(b) of the AML/CTF Act is now required to provide complete payer information as specified under section 71.

Subparagraph 16.2(2)

This subparagraph no longer contains the requirement that reporting entities which send an instruction under subsection 70(b) of the AML/CTF Act must supply tracing information as specified under section 72 of the AML/CTF Act.

Subparagraph 16.3(3)(a)

This subparagraph amends the reporting requirements for reporting entities which transmit instructions into Australia within the meaning of subsection 70(b) of the AML/CTF Act.

Subparagraph 16.3(3)(b)

This subparagraph removes the requirement for reporting entities to provide tracing information under section 72 of the AML/CTF Act, for instructions transmitted into Australia within the meaning of subsection 70(b) of the Act.

Paragraph 16.4

This paragraph specifies the contact details which must be provided to AUSTRAC in regard to the person making the report.

Chapter 51

Paragraph 51.1

This paragraph specifies that these AML/CTF Rules have been made under section 229 of the AML/CTF Act for the definition of 'financial institution' in section 5 of the AML/CTF Act under paragraph (e), the definition of 'non-financier' in section 5 of the AML/CTF Act under paragraph (e), the definition of 'ordering institution' and 'beneficiary institution' in subparagraphs 8(1)(c)(v), 8(1)(d)(v), 8(2)(c)(v), 9(1)(c)(v), 9(1)(d)(v) and 9(2)(c)(v) of the AML/CTF Act and the conditions under paragraph 45(1)(c) of that Act.

Paragraph 51.2

This paragraph specifies KEBA and Travelex within the definition of 'financial institution' in section 5 of the AML/CTF Act.

Paragraph 51.3

This paragraph specifies KEBA and Travelex within the definition of ‘non-financier’ in section 5 of the AML/CTF Act.

Paragraph 51.4

This paragraph specifies KEBA and Travelex as ‘ordering institutions’ and ‘beneficiary institutions’ for the purposes of subparagraphs 8(1)(c)(v), 8(1)(d)(v), 8(2)(c)(v), which relate to person to person electronic funds transfer instructions, and as ‘ordering institutions’ and ‘beneficiary institutions’ for the purposes of subparagraphs 9(1)(c)(v), 9(1)(d)(v) and 9(2)(c)(v) which relate to same person electronic funds transfer instructions.

Paragraph 51.5

This paragraph specifies the conditions which Travelex and KEBA must satisfy for the purposes of paragraphs 51.1 to 51.4.

Paragraph 51.6

This paragraph defines ‘foreign exchange contract’, ‘member-administered closed user group’ and ‘proprietary system’.

4. Legislative instruments

These 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 an impact on any reporting entity that provides a designated service covered by these AML/CTF Rules.

6. Assessment of benefits

Chapter 16

The amendments to Chapter 16 will result in there being no variance in the reporting of batched or non-batched instructions which facilitate the movement of funds into or out of Australia, and make the Rules consistent with the current industry practice of splitting a batched transfer instruction into individual instructions and reporting these separately to AUSTRAC.

This will reduce the regulatory burden on relevant reporting entities as their current processes and procedures will now reflect the requirements of Chapter 16.

Chapter 51

As a result of the AML/CTF Rules, both Travelex and KEBA will report IFTIs under Chapter 16 rather than Chapter 17. As Chapter 16 requires the reporting of less reportable details to AUSTRAC than Chapter 17, the regulatory burden on Travelex and KEBA is reduced in regard to these reporting requirements.

7. Consultation

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

AUSTRAC published a draft of each of these AML/CTF Rules on its website for public comment.

8. Ongoing consultation

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