



## Australian Government

### Australian Transaction Reports and Analysis Centre

#### **Explanatory Statement – *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2012 (No. 3) amending the 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 39**

1. 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 39**

2. Section 39 (General exemptions) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) specifies designated services to which all or certain provisions of Part 2 (Identification procedures) of the Act do not apply. Subsection 39(4) specifies that the AML/CTF Rules may provide that a specified provision of Part 2 does not apply to a designated service that is provided in the circumstances specified in the AML/CTF Rules.
3. Chapter 39 of the AML/CTF Rules provides an exemption from the applicable customer identification procedure (ACIP) relating to premium funding loans for a general insurance policy. Insurance premium funding involves a loan to a customer to pay for the premium of an insurance policy, where the lender and the insurer are not the same entity.
4. Currently, paragraph 39.3 of Chapter 39 will repeal the Chapter on 30 June 2012. The amendments to Chapter 39 repeal paragraph 39.3; thereby allowing the exemption contained in the Chapter to continue to operate beyond 30 June 2012.

## **Statement of Compatibility with the *Human Rights (Parliamentary Scrutiny) Act 2011***

5. The *Human Rights (Parliamentary Scrutiny) Act 2011* was passed on 25 November 2011 and came into effect on 4 January 2012. It introduces a requirement for Statements of Compatibility to accompany all new Bills and disallowable legislative instruments.
6. The Statement of Compatibility for *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2012 (No.3)* is included in this Explanatory Statement at page 4. The AUSTRAC CEO as the rule-maker of this legislative instrument has stated that it is compatible with the human rights and freedoms recognised or declared in the international instruments lists in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **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 2012 (No.3)*.

#### **Section 2**

This section specifies that Schedule 1 commences on the day after it is registered.

#### **Section 3**

This section contains the details of the amendment:

Schedule 1 amends the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)*.

#### **Schedule 1**

This schedule amends Chapter 39.

### **3. Notes on items**

#### **Item 1**

This item repeals paragraph 39.3 to allow the Chapter to continue in operation beyond 30 June 2012.

#### **Item 2**

This item renumbers paragraph 39.4 as paragraph 39.3.

### **Item 3**

This item amends the details of the website address for the Office of the Australian Information Commissioner from <http://www.privacy.gov.au> to <http://www.oaic.gov.au>.

#### **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**

The amendments to Chapter 39 will allow the exemption contained in the Chapter to continue in operation beyond 30 June 2012. These amendments will afford premium funders continued relief from the regulatory burden associated with conducting the applicable customer identification procedure relating to premium funding loans for a general insurance policy from 1 July 2012 onwards.

#### **7. Consultation**

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

AUSTRAC also published the draft amendments to Chapter 39 on its website for public consultation.

#### **8. Ongoing consultation**

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

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### ***Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2012 (No. 3)***

This Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the legislative instrument**

This Instrument amends Chapter 39 of the Anti-Money Laundering and Counter-Terrorism Financing Rules.

The amendments remove the paragraph which repeals the Chapter on 30 June 2012; thereby allowing the exemption contained in the Chapter to continue in operation beyond 30 June 2012.

#### **Human rights implications**

The amendments are compatible with the human rights and freedoms recognised or declared in the international instruments listed in the definition of ‘human rights’ in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*. In particular, it is considered that the amendments advance the protection of the human rights relevant to privacy and reputation. The exemption contained in Chapter 39 removes the obligation on premium funders to collect identity information from their customers in relation to the provision of premium funding loans for general insurance policies. The amendments allow this exemption to continue in operation beyond 30 June 2012.

#### **Conclusion**

This Instrument is compatible with human rights as it advances the protection of human rights relevant to privacy and reputation.

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