



Australian Government

Australian Transaction Reports and Analysis Centre

Explanatory Statement – *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2014 (No. 1)* amending the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*

1. Purpose and operation of Anti-Money Laundering/Counter-Terrorism Financing Rules (AML/CTF Rules) amending Chapter 1 and adding Chapter 69.

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.

Amendment to Chapter 1

2. Chapter 1 of the AML/CTF Rules contains the key terms and concepts that apply throughout the AML/CTF Rules. The amendment to Chapter 1 amends subparagraph (5) of the definition of ‘primary non-photographic identification document’ in order to remove any doubt over whether ‘health care cards’ are within the scope of the definition, as the *Social Security Act 1991* defines ‘concession cards’ as being:

- (a) a pensioner concession card; or
- (b) a health care card; or
- (c) a seniors health card.

Addition of Chapter 69

3. Chapter 69 of the AML/CTF Rules relates to the prohibition imposed by subsections 74(1), (1A), and (1B) of the AML/CTF Act that persons not registered on the Remittance Sector Register (RSR) must not provide remittance services. It exempts casino licence holders who have been inadvertently caught by these provisions under the AML/CTF Act from the obligation to be registered on the RSR.

4. For the exemption to apply the reporting entity must hold a casino licence and provide the item 31, item 32 or item 32A designated services of table 1 in subsection 6(2) of the AML/CTF Act where:
 - (a) the designated services are provided in a casino to which the casino licence relates, and
 - (b) the designated services are provided in conjunction with a designated service set out in table 3 (gambling services) in subsection 6(4) of the AML/CTF Act.
5. These AML/CTF Rules do not exempt casino licence holders from any other provision or obligation of the AML/CTF Act including the reporting obligations specified in Part 3 of the Act (such as the reporting of international funds transfer instructions), and the requirement to be enrolled on the Reporting Entities Roll.

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

6. The *Human Rights (Parliamentary Scrutiny) Act 2011* was passed on 25 November 2011 and came into effect on 4 January 2012. It introduced a requirement for a Statement of Compatibility to accompany all new Bills and disallowable legislative instruments.
7. The Statement of Compatibility for the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2014 (No. 1)* is included in this Explanatory Statement at page 5. 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 listed 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 2014 (No. 1)*.

Section 2

This section specifies that Schedules 1 and 2 commence on the day after the instrument is registered.

Section 3

This section contains the details of the amendment:

Schedules 1 and 2 amend the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*.

Schedule 1

This schedule amends Chapter 1.

Schedule 2

This schedule inserts a new chapter, Chapter 69.

3. Notes on Items

Schedule 1

Chapter 1

Item 1

This item amends Chapter 1 by deleting subparagraph (5) of the definition of ‘primary non-photographic identification document’ and by inserting a new subparagraph (5) relating to the term ‘concession card’.

Schedule 2

Chapter 69

Item 1

Paragraph 69.1

This paragraph specifies that Chapter 69 is made under section 229 for subsection 247(4) of the AML/CTF Act, which relates to an exemption from a specified provision of the AML/CTF Act for a designated service that is provided in specified circumstances.

Paragraph 69.2

This paragraph specifies that subsections 74(1), 74(1A) and 74(1B) of the AML/CTF Act do not apply to the provision by a reporting entity of a designated service set out in item 31, item 32 or item 32A of table 1 in subsection 6(2) of the AML/CTF Act in the circumstances specified in paragraph 69.3.

Paragraph 69.3

This paragraph specifies the circumstances under which the exemption in paragraph 69.2 applies. The designated service must be provided in conjunction with a designated service set out in table 3 (Gambling services) in subsection 6(4) of the AML/CTF Act, the reporting entity must be a holder of a casino licence, and the designated services must be provided in a casino to which the casino licence relates.

Paragraph 69.4

This paragraph provides the definition of ‘holder of a casino licence’.

4. Legislative instruments

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

5. Likely impact

The amendment to Chapter 1 and the addition of Chapter 69 will have a positive impact on relevant reporting entities.

6. Assessment of benefits

Amendments to Chapter 1

The amendment to subparagraph (5) of the definition of ‘primary non-photographic identification document’ will remove doubt as to whether the definition includes ‘health care card’, and therefore provides certainty to industry in respect to the application of the amended definition.

Chapter 69

The chapter will reduce regulatory burden on industry by exempting casino licence holders from obligations that include the need to apply for registration on the RSR, renew their registration every three years and notify AUSTRAC whenever there is a change to their registration details.

7. Consultation

AUSTRAC has consulted with the Australian Federal Police, the Australian Taxation Office, the Australian Customs and Border Protection Service, the Australian Crime Commission and the Office of the Australian Information Commissioner in relation to the amendment to Chapter 1 and the addition of Chapter 69.

AUSTRAC published the amendments to Chapter 1 of the AML/CTF Rules for public consultation on the AUSTRAC website from 26 September 2013 to 24 October 2013.

AUSTRAC published Chapter 69 of the AML/CTF Rules for public consultation on the AUSTRAC website from 17 October 2013 to 14 November 2013.

8. Ongoing consultation

AUSTRAC will conduct ongoing consultation with stakeholders on the operation of the 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 2014 (No. 1)

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

The Instrument amends Chapter 1 of the Anti-Money Laundering/Counter-Terrorism Financing Rules (AML/CTF Rules) by deleting subparagraph (5) of the definition of ‘primary non-photographic identification document’ and inserting a new subparagraph (5) relating to the term ‘concession card’.

The Instrument also adds Chapter 69 to the AML/CTF Rules which exempts casino licence holders from the requirement under the AML/CTF Act to be registered on the Remittance Sector Register.

Human rights implications

It is considered that this Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Instrument is therefore compatible with human rights as it does not raise any human rights issues.

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Australian Transaction Reports and Analysis Centre