



Australian Government

Australian Transaction Reports and Analysis Centre

Explanatory Statement – *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2014 (No. 5)* 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 11

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 11

2. Chapter 11 of the AML/CTF Rules is made for the purposes of paragraphs 47(1)(a) and (b) of the AML/CTF Act and specifies the reporting periods and the lodgment periods applicable to the compliance reporting obligation in section 47 of the AML/CTF Act.
3. AUSTRAC provided an exemption for registered remittance network providers (RNPs) and registered remittance affiliates providing designated services under items 31, 32 or 32A in order to alleviate the regulatory burden of registration on the Remittance Sector Register for the 2012 and 2013 compliance reporting periods.
4. AUSTRAC is undertaking a review of its compliance reporting framework, in line with the *AUSTRAC Supervision Strategy 2012-14*. Until this review is finalised, AUSTRAC considers that the current arrangements for registered RNPs and their registered remittance affiliates should be maintained. Accordingly, these amendments to Chapter 11 exempt registered RNPs and their registered remittance affiliates from compliance reporting obligations for 2014.
5. If a registered remittance affiliate of a registered RNP provides a designated service in addition to items 31 or 32, or a registered RNP provides a designated service in addition to item 32A in 2014, then they are required to submit a compliance report for that year with respect to all designated services.
6. This legislative instrument also contains amendments to repeal outdated provisions in Chapter 11.

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

7. 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.
8. The Statement of Compatibility for *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2014 (No. 5)* 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 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. 5)*.

Section 2

This section specifies that Schedule 1 commences on the day after the instrument 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 sets out amendments to Chapter 11.

3. Notes on Items

Schedule 1

1. Chapter 11

Item 1

This item repeals the existing Chapter 11 and substitutes a new Chapter 11 which has been amended to extend the existing exemption for registered RNPs and registered remittance affiliates to cover 2014 AML/CTF compliance reporting obligations.

The amendments also revise Chapter 11 to repeal outdated provisions.

The details of the amendments to each paragraph are set out below:

Amendment to paragraph 11.2

An outdated provision relating to a past compliance reporting period has been repealed.

Amendment to paragraph 11.3

An outdated provision relating to a past lodgment period has been repealed.

Amendment to paragraph 11.4

This amendment specifies that registered RNPs and registered remittance affiliates providing specified services are exempt from compliance reporting obligations in 2014.

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 amendments to Chapter 11 will not have an impact on reporting entities which were exempt from compliance reporting in 2013 as this exemption is continued for the 2014 compliance reporting and lodgment period.

6. Assessment of benefits

The regulatory burden on registered RNPs and registered remittance affiliates will be reduced by the continuance in 2014 of the exemption from compliance reporting obligations which commenced in 2012 and continued in 2013.

7. Consultation

AUSTRAC did not consult on the amendments to Chapter 11 as they were considered to be machinery in nature and continue existing regulatory arrangements for relevant reporting entities.

8. Ongoing consultation

AUSTRAC will conduct ongoing consultation with stakeholders on the operation of the AML/CTF Rules. AUSTRAC has also undertaken public consultation on proposed changes to the compliance reporting framework, as part of the review of compliance reporting.

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. 5)

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 11 of the Anti-Money Laundering/Counter-Terrorism Financing Rules (AML/CTF Rules) to extend the existing exemption for registered remittance network providers and registered remittance affiliates to cover compliance reporting obligations for 2014 and, in addition, to repeal outdated provisions.

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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