



Australian Government

Australian Transaction Reports and Analysis Centre

Explanatory Statement – *Australian Transaction Reports and Analysis Centre Industry Contribution Census Day Determination 2015 (No. 2)*

1. Purpose and operation of *Australian Transaction Reports and Analysis Centre Industry Contribution Census Day Determination 2015 (No. 2)*

1. The *Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011* (the Industry Contribution Act) is part of the suite of legislation giving effect to the 2014 Budget announcement that an industry contribution arrangement be implemented to fund AUSTRAC's regulatory and intelligence functions.
2. The Industry Contribution Act imposes the levy which, in conjunction with section 7 of the *Australian Transaction Reports and Analysis Centre Industry Contribution (Collection) Act 2011*, makes the levy payable by a person who is a leviable entity. A 'leviable entity' is a reporting entity that provided a designated service within the previous financial year and is enrolled, or is required to be enrolled, on the Reporting Entities Roll on the 'census day' for the current financial year and is not an exempt entity under the Industry Contribution Act. Mandatory enrolment is necessary to accurately determine the amount of levy payable by leviable entities.
3. The 'census day' is the day that a reporting entity's liability to pay the levy is determined by the AUSTRAC CEO by legislative instrument or is specified in subsection 7(1) of the Industry Contribution Act. By the *Australian Transaction Reports and Analysis Centre Industry Contribution Census Day Determination 2015 (No. 2)*, the AUSTRAC CEO has determined that the census day for the financial year beginning on 1 July 2015 is 14 September 2015.

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

4. 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.
5. The Statement of Compatibility for the *Australian Transaction Reports and Analysis Centre Industry Contribution Census Day Determination 2015 (No.*

2) is included in this Explanatory Statement at page 4. The AUSTRAC CEO, as the 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 *Australian Transaction Reports and Analysis Centre Industry Contribution Census Day Determination 2015 (No. 2)*.

Section 2

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

Section 3

This section contains the determination of the AUSTRAC CEO that the census day for the financial year beginning on 1 July 2015 is 14 September 2015.

3. Legislative instruments

This Determination is a legislative instrument as defined in section 5 of the *Legislative Instruments Act 2003*.

4. Likely impact

This Instrument will have an impact on any reporting entity which is a 'leviable entity' and is liable to pay the levy imposed under the *Australian Transaction Reports and Analysis Centre Industry Contribution (Collection) Act 2011*.

5. Assessment of benefits

This Instrument provides certainty to leviable entities in regard to the precise date of the 'census day' that will be used by the AUSTRAC CEO to determine whether a reporting entity is liable to pay the levy.

6. Consultation

AUSTRAC undertook three rounds of public consultation on the AUSTRAC Industry Contribution arrangements prior to invoicing entities for the financial year beginning 1 July 2014, which included consideration of the administrative mechanisms to impose and collect the industry contribution. Public consultation has not been undertaken on this Determination as it is considered to be of a minor or machinery nature within the terms of section 17 (Rule-makers should consult before making legislative instruments) of the *Legislative Instruments Act 2003*, as it does not have a direct, or substantial indirect, effect on business or restrict competition.

AUSTRAC will undertake public consultation on the 2015-16 Industry Contribution levy during July and August 2015. This consultation will include notification of the census day, as well as consultation on the calculation model factors to be applied for the 2015-16 financial year.

7. Ongoing consultation

AUSTRAC will conduct ongoing consultation with stakeholders on the operation of this Instrument.

Statement of Compatibility with Human Rights

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

Australian Transaction Reports and Analysis Centre Industry Contribution Census Day Determination 2015 (No. 2)

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 *Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011* (the Industry Contribution Act) imposes a levy which, in conjunction with section 7 of the *Australian Transaction Reports and Analysis Centre Industry Contribution (Collection) Act 2011*, makes the levy payable by a person who is a leviable entity.

The ‘census day’ is the day that a leviable entity’s liability to pay the levy is determined by the AUSTRAC CEO by legislative instrument or is specified in subsection 7(1) of the Industry Contribution Act. By the *Australian Transaction Reports and Analysis Centre Industry Contribution Census Day Determination 2015 (No. 2)*, I have determined that the census day for the financial year beginning on 1 July 2015 is ‘14 September 2015’.

Human rights implications

This Instrument does not engage any of the applicable rights or freedoms.

Conclusion

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

Peter Clark
Acting Chief Executive Officer
Australian Transaction Reports and Analysis Centre