



Explanatory Statement – *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2018 (No. 3) amending the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 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 (Compliance Report – Reporting and Lodgment periods)

2. Chapter 11 has been amended to simplify the language around recurring reporting and lodgment periods, and specify the circumstances and periods in which registered remittance affiliates are exempted from the reporting obligations set out in section 47 of the AML/CTF Act.
3. Previously, AUSTRAC had exempted both registered remittance network providers (RNPs) and their registered remittance affiliates from the compliance reporting obligations in section 47 of the AML/CTF Act due to incompatibility with the compliance reporting framework. Following the re-design of the compliance reporting framework, AUSTRAC has determined that this exemption is no longer considered appropriate for RNPs and Chapter 11 has been amended to exclude these entities from the scope of the exemption.
4. While the previous exemption from the requirement to lodge a compliance report continues in respect of registered remittance affiliates of a registered RNP (due to continuing incompatibility with the compliance reporting framework), amendments have been made to subparagraph 11.4(3) of Chapter 11 to clarify that if a registered remittance affiliate either:
 - (a) provides designated services other than or in addition to those set out in items 31 and 32 of Table 1 in subsection 6(2) of the AML/CTF Act; or
 - (b) provides item 31 and 32 designated services as an RNP or an independent remittance dealer;

then they will be required to submit a Compliance Report for that year with respect to all designated services which they provide.

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

5. The *Human Rights (Parliamentary Scrutiny) Act 2011* requires a Statement of Compatibility declaring that the relevant instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act.
6. The Statement of Compatibility for the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2018 (No. 3)* is included in this Explanatory Statement at page 3. 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*.

Notes on sections

Section 1

7. This section sets out the name of the Instrument, i.e. *the Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2018 (No. 3)*.

Section 2

8. This section specifies that the Instrument commences the day after registration.

Section 3

9. 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

10. This schedule amends Chapter 11.

Notes on items

Chapter 11

Item 1

11. This item repeals and replaces the existing Chapter 11.

Legislative instruments

12. These AML/CTF Rules are legislative instruments as defined in section 8 of the *Legislation Act 2003*.

Likely impact

13. The amendments to Chapter 11 are minor and machinery in nature, and are unlikely to have significant direct or indirect regulatory impacts on reporting entities.
14. The Office of Best Practice Regulation (OBPR) advised AUSTRAC that a Regulatory Impact Statement (RIS) is not required for these amendments.

Consultation

15. The amendments to Chapter 11 were published on the AUSTRAC website from 25 October 2018 to 22 November 2018.
16. AUSTRAC has consulted with the Australian Taxation Office, the Department of Home Affairs, the Australian Federal Police, the Australian Criminal Intelligence Commission and the Office of the Australian Information Commissioner.

Ongoing consultation

17. 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 2018 (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

The Instrument amends Chapter 11 to simplify the language around recurring reporting and lodgement periods, and specify the circumstances and periods in which registered remittance affiliates are exempted from the reporting obligations set out in section 47 of the AML/CTF Act.

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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