

EXPLANATORY STATEMENT

Issued by authority of the AUSTRAC CEO

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

*Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment
(Chapter 78 Amendments) Instrument 2022*

AUTHORITY

Section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (**AML/CTF Act**) provides that the AUSTRAC CEO may, by legislative instrument, make Anti-Money Laundering and Counter-Terrorism Financing Rules (**AML/CTF Rules**). These Rules are set out in the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*.

PURPOSE AND OPERATION OF THE INSTRUMENT

The *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment (Chapter 78 Amendments) Instrument 2022* (the **Amendment Instrument**) is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Amendment Instrument are set out in [Attachment A](#).

A Statement of Compatibility with Human Rights (the Statement) is at [Attachment B](#). The Statement was completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Amendment Instrument promotes the realisation of human rights, and as such, is compatible with them.

Background

Amendment of Chapter 78

1. The *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2020 (No. 5)* inserted Chapter 78 of the AML/CTF Rules and:
 - (a) specified companies in the TransferWise Group (other than TransferWise Australia Pty Ltd (**TransferWise**) ABN 38 616 463 855) as ordering and beneficiary institutions for the purposes of the AML/CTF Act;
 - (b) provided for conditions that exclude ordering and beneficiary institutions other than TransferWise from reporting international funds transfer instructions (**IFTIs**) if they deal with the specified entities.
2. Chapter 78 preserves the current requirement for TransferWise to report IFTIs without placing additional reporting obligations on other reporting entities.

3. Chapter 78 applied to one reporting entity, TransferWise.
4. TransferWise changed its name to Wise Australia Pty Ltd (**Wise Australia**) and that took effect on 13 February 2021.
5. The effect of this amendment changes TransferWise to Wise Australia.

REGULATION IMPACT STATEMENT

6. The Office of Best Practice and Regulation has advised that a Regulatory Impact Statement is not required as the amendments to the AML/CTF Rules are machinery changes.

CONSULTATION

7. Public consultation on the amendments to Chapter 78 did not occur as they are machinery changes.

SUNSETTING

8. Under item 6 of Regulation 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* these AML/CTF Rules if made, will not be subject to sunseting.
9. The AML/CTF Rules are designed to be enduring because they:
 - (a) complement and provide the detail for the broader obligations set out in the AML/CTF Act, aid in meeting Australia's international obligations and matters of international concern, and support the combatting of money laundering and terrorism financing
 - (b) assist industry in fulfilling their compliance with the AML/CTF Act and provide commercial and regulatory certainty for industry, and
 - (c) are subject to an ongoing process of development, refinement and review, involving scrutiny and feedback from a wide range of stakeholders including industry, the Financial Action Task Force, Australian Government agencies, law enforcement agencies, and other interested parties.

***Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment
(Chapter 78 Amendments) Instrument 2022***

Section 1—Name

This section provides that the name of the Instrument is the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment (Chapter 78 Amendments) Instrument 2022*.

Section 2—Commencement

This section provides for the commencement of each provision in the Instrument, as set out in the table in subsection 2(1).

The amendments in Schedule 1 commence on the day after registration.

Section 3—Authority

This section provides that the Instrument is made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Section 4—Schedules

This section provides that the instrument specified in Schedule 1 are amended as set out in the applicable items in that Schedule.

Schedule 1—Amendments

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

Notes on items

Item 1 - Chapter 78

This item provides that wherever occurring, “TransferWise” is substituted with “Wise”.

Item 2 - Chapter 78

This item provides that wherever occurring, “England”, is substituted with “United Kingdom”.

ATTACHMENT B

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Australian Human Rights Commission Regulations 2019

This Disallowable Legislative Instrument (the **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 Instrument

The Instrument:

- (a) amends Chapter 78 of the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*. The amendment is a change in reporting entity name from “TransferWise” to “Wise” and a change from “England” to “United Kingdom”

Human rights implications

The *Human Rights (Parliamentary Scrutiny) Act 2011* requires that Statements of Compatibility must be made by the rule-maker with regard to disallowable legislative instruments, and must contain an assessment of whether the legislative instrument is compatible with the rights and freedoms recognised in the seven core international human rights treaties that Australia has ratified.

Because the proposed amendment to Chapter 78 are machinery changes the Instrument does not engage any of the applicable rights or freedoms, including the right to privacy and reputation contemplated by Article 17 of the *International Covenant on Civil and Political Rights*.

Conclusion

This Instrument is compatible with human rights

[signed]
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