

## **Explanatory Statement – Anti-Money Laundering and Counter-Terrorism Financing Rules in Respect of Reportable Details of Bearer Negotiable Instruments**

### **1. Purpose and operation of Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) in respect of reportable details of bearer negotiable instruments**

Section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the Act) provides that the AUSTRAC Chief Executive Officer (CEO) may, by writing, make Rules prescribing matters required or permitted by any other provision of the Act to be prescribed by the Rules.

Division 3 of Part 4 of the Act deals with reports about movements of bearer negotiable instruments into or out of Australia. Subsection 59(1) requires that if a person produces to a police officer or customs officer, one or more bearer negotiable instruments, or a police officer or customs officer conducts an examination or search and finds one or more bearer negotiable instruments that a person has with him or her, the officer may require the person to give the AUSTRAC CEO, a customs officer or a police officer, a report about the bearer negotiable instruments as soon as possible.

Under paragraph 59(2)(b) of the Act, the report must contain such information as specified in the Rules. The information specified in the Rules includes:

- full details of the person carrying the bearer negotiable instrument(s);
- full details of the recipient of the bearer negotiable instrument(s); and
- full details of the bearer negotiable instrument(s).

These Rules and Division 3 of Part 4 of the Act commence on 14 December 2006.

### **2. Legislative instruments**

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

### **3. Likely impact**

The Rules will have an impact on any person travelling into or out of Australia who:

- (a) carries bearer negotiable instrument(s); and
- (b) is requested by a police officer or customs officer to give the AUSTRAC CEO, a customs officer or a police officer, a report about bearer negotiable instrument(s).

In terms of any likely costs to consumers, there is no direct cost other than the time taken to complete the form.

#### **4. Assessment of benefits**

Division 3 of Part 4 of the Act provides for a reporting system in relation to bearer negotiable instruments. This system implements the requirements of the Financial Action Task Force's Special Recommendation IX (SR IX) on financing of terrorism in relation to cash couriers. In brief, SR IX requires countries to have systems in place to detect physical cross-border transportation of bearer negotiable instruments and physical currency.

Reports about bearer negotiable instruments will result in improved financial intelligence which will help Australian law enforcement agencies to combat money laundering and financing of terrorism. Increased financial intelligence will also help the Australian Taxation Office to detect tax evasion and Centrelink to detect welfare fraud.

#### **5. Consultation**

AUSTRAC has consulted with the Privacy Commissioner, the Australian Customs Service, the Australian Federal Police, the Australian Taxation Office and the Australian Crime Commission in relation to these Rules.

AUSTRAC also published a draft of these Rules on its website for public comments.

#### **6. Ongoing consultation**

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

## **Explanatory Statement - Anti-Money Laundering and Counter-Terrorism Financing Rules in Respect of Movements of Physical Currency into or out of Australia**

### **1. Purpose and operation of Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) in respect of movements of physical currency into or out of Australia**

Section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the Act) provides that the AUSTRAC Chief Executive Officer (CEO) may, by writing, make Rules prescribing matters required or permitted by any other provision of the Act to be prescribed by the Rules.

Division 2 of Part 4 of the Act deals with reports about movements of physical currency into or out of Australia. Subsection 53(3) requires that where a person moves physical currency into or out of Australia, and the amount of the currency is not less than \$10 000, the person commits an offence unless the person provides to the AUSTRAC CEO, a customs officer or a police officer, a report about the physical currency.

Under paragraph 53(8) of the Act, the report must contain such information as specified in the Rules. The information specified in the Rules includes:

- full details of the person carrying the physical currency(ies); and
- full details of the currency(ies).

The Rules and Division 2 of Part 4 of the Act commence on 14 December 2006.

### **2. Legislative instruments**

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

### **3. Likely impact**

The Rules will have an impact on any person travelling into or out of Australia who carries physical currency of not less than \$10,000.

In terms of any likely costs to consumers, there is no direct cost other than the time taken to complete the form.

### **4. Assessment of benefits**

The Rules and Division 2 of Part 4 of the Act (reports about movements of physical currency into or out of Australia) provides for a reporting system in relation to physical currency. This system implements the requirements of the Financial Action Task Force's Special Recommendation IX (SR IX) on financing of terrorism in relation to cash couriers. In brief, SR IX requires countries to have systems in place to detect physical cross-border transportation of bearer negotiable instruments and

physical currency. The *Financial Transaction Reports Act 1988* contains similar requirements in respect of physical currency.

Reports about movements of physical currency will result in improved financial intelligence which will help Australian law enforcement agencies to combat money laundering and financing of terrorism. Increased financial intelligence will also help the Australian Taxation Office to detect tax evasion and Centrelink to detect welfare fraud.

## **5. Consultation**

AUSTRAC has consulted with the Privacy Commissioner, the Australian Customs Service, the Australian Federal Police, the Australian Taxation Office and the Australian Crime Commission in relation to the Rules.

AUSTRAC also published a draft of these Rules on its website for public comments.

## **6. Ongoing consultation**

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

## **Explanatory Statement – Anti-Money Laundering and Counter-Terrorism Financing Rules in respect of Receipt of Physical Currency from Outside Australia**

### **1. Purpose and operation of Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) in respect of receipt of physical currency from outside Australia**

Section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the Act) provides that the AUSTRAC Chief Executive Officer (CEO) may, by writing, make Rules prescribing matters required or permitted by any other provision of the Act to be prescribed by the Rules.

Division 2 of Part 4 of the Act deals with reports about receipt of physical currency from outside Australia. Subsection 55(5)(b) requires that where a person receives physical currency moved from outside Australia and the amount of the currency is not less than \$10 000, the person commits an offence unless the person provides to the AUSTRAC CEO, a customs officer or a police officer, a report about the physical currency.

Under paragraph 55(5)(b) of the Act, the report must contain such information as specified in the Rules. The information specified in the Rules includes:

- full details of the person receiving the physical currency(ies);
- the means by which the physical currency has been moved to the person from outside Australia;
- the name of the person or the service provider who moved the physical currency to the recipient from outside Australia; and
- full details of the currency(ies).

The Rules and Division 2 of Part 4 of the Act commence on 14 December 2006.

### **2. Legislative instruments**

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

### **3. Likely impact**

The Rules will have an impact on any person receiving physical currency of not less than \$10,000 from overseas.

In terms of any likely costs to consumers, there is no direct cost other than the time taken to complete the form.

### **4. Assessment of benefits**

The Rules and Division 2 of Part 4 of the Act (reports about receipts of physical currency from outside Australia) provides for a reporting system in relation to physical currency. This system implements the requirements of the Financial Action

Task Force's Special Recommendation IX (SR IX) on financing of terrorism in relation to cash couriers. In brief, SR IX requires countries to have systems in place to detect physical cross-border transportation of bearer negotiable instruments and physical currency. The *Financial Transaction Reports Act 1988* contains similar requirements in respect of physical currency.

Reports about receipt of physical currency will result in improved financial intelligence which will help Australian law enforcement agencies to combat money laundering and financing of terrorism. Increased financial intelligence will also help the Australian Taxation Office to detect tax evasion and Centrelink to detect welfare fraud.

## **5. Consultation**

AUSTRAC has consulted with the Privacy Commissioner, the Australian Customs Service, the Australian Federal Police, the Australian Taxation Office and the Australian Crime Commission in relation to the Rules.

AUSTRAC also published a draft of these Rules on its website for public comments.

## **6. Ongoing consultation**

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

## **Explanatory Statement – Anti-Money Laundering and Counter-Terrorism Financing Rules in Respect of Registrable Details**

### **1. Purpose and operation of Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) in respect of registrable details**

Section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the Act) provides that the AUSTRAC Chief Executive Officer (CEO) may, by writing, make Rules prescribing matters required or permitted by any other provision of the Act to be prescribed by the Rules.

Part 6 of the Act deals with the register of providers of designated remittance services. Paragraph 74(1) requires that a person must not provide a registrable designated remittance service if that person's name and registrable details are not entered on the Register of providers of Designated Services.

Clause 5 of the Act defines Registrable Details as such information as specified in the Rules. The information specified in the Rules includes:

- Full details are required of the person providing the service
- Full details are required of the person's business

These Rules and Part 6 of the Act commence on 14 December 2006.

### **2. Legislative instruments**

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

### **3. Likely impact**

The Rules will have an impact on all persons who provide designated remittance services.

In terms of any likely costs to persons, there is no direct cost other than the time taken to complete the form.

### **4. Assessment of benefits**

Part 6 of the Act provides for a reporting system in relation to all persons who provide registrable designated remittance services. This system implements the requirements of the Financial Action Task Force's Special Recommendation VI (SR VI). In brief, SR VI requires countries to have systems in place to ensure that persons or legal entities are licensed or registered and subject to all the FATF Recommendations.

A register of providers of designated remittance services will result in improved compliance by this industry sector with its obligations under Anti-Money Laundering and Counter-Terrorism Financing legislation. This in turn will result in improved

financial intelligence which will help Australian law enforcement agencies to combat money laundering and financing of terrorism. Increased financial intelligence will also help the Australian Taxation Office to detect tax evasion and Centrelink to detect welfare fraud.

## **5. Consultation**

AUSTRAC has consulted with the Privacy Commissioner, the Australian Customs Service, the Australian Federal Police, the Australian Taxation Office and the Australian Crime Commission in relation to these Rules.

AUSTRAC also published a draft of these Rules on its website for public comments.

## **6. Ongoing consultation**

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