

## **Explanatory Statement – Anti-Money Laundering and Counter-Terrorism Financing Rules for reportable details of suspicious matters**

### **1. Purpose and operation of Anti-Money Laundering and Counter-Terrorism Financing Rules (AML/CTF Rules) for reportable details of suspicious matters**

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

Division 2 of Part 3 of the AML/CTF Act deals with suspicious matter reporting obligations. Paragraph 41(3)(b) of the AML/CTF Act specifies that the report must contain such information as specified in the AML/CTF Rules. The information specified in the AML/CTF Rules includes details of the following (where known and/or applicable):

- the person who has requested the designated service
- reasonable grounds for suspicion relating to the suspicious matter
- the payee for a transfer of money or property under the designated service
- the agent, if any, requesting the designated service on behalf of a person
- money or property to be transferred.

These AML/CTF Rules and Division 2 of Part 3 of the AML/CTF Act commence on 12 December 2008.

### **2. Legislative instruments**

The AML/CTF Rules are legislative instruments as defined in section 5 of the *Legislative Instruments Act 2003*.

### **3. Likely impact**

These AML/CTF Rules will have an impact on a reporting entity where a suspicious matter reporting obligation arises in relation to a person.

In terms of any likely costs to consumers, there is no direct cost. Where a suspicious matter reporting obligation arises or has arisen for a reporting entity in relation to a person and the entity has lodged a suspicious matter report with AUSTRAC, the entity must not communicate to any other person that it has lodged the report.

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

Division 2 of Part 3 of the AML/CTF Act provides for a reporting system in relation to suspicious matters. This system implements the requirements of the Financial Action Task Force's (FATF's) Recommendation 13 and Special Recommendation IV. Pursuant to Recommendation 13, if a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of criminal activity or are related to

terrorist financing, it should promptly report its suspicions to the financial intelligence unit. FATF's Special Recommendation IV provides that if financial institutions, or other businesses or entities subject to anti-money laundering obligations, suspect or have reasonable grounds to suspect that funds are linked or related to, or are to be used for, terrorism, terrorist acts or by terrorist organisations, they should be required to report promptly their suspicions to the competent authorities.

Reports about suspicious matters will result in improved financial intelligence which will help Australian law enforcement agencies to combat money laundering and the 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 Office of the Privacy Commissioner, the Australian Customs Service, the Australian Federal Police, the Australian Taxation Office and the Australian Crime Commission in relation to these AML/CTF Rules.

AUSTRAC also published a draft of these AML/CTF Rules on its website for public comment.

## **6. Ongoing consultation**

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