



**Australian Government**

**Australian Transaction Reports  
and Analysis Centre**

**Explanatory Statement – Amendment of *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)***

**1. Purpose and operation of Anti-Money Laundering and Counter-Terrorism Financing Rules (AML/CTF Rules) adding Chapter 52 of the AML/CTF Rules**

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.

**Chapter 52 ‘Persons who are licensed to operate no more than 15 gaming machines’**

Subsection 247(4) of the AML/CTF Act allows exemption from a specified provision of the AML/CTF Act in relation to a designated service that is provided in circumstances specified in the AML/CTF Rules.

These AML/CTF Rules exempt from specified provisions of the Act a reporting entity that has a total entitlement under licences issued by one or more States or Territories to operate no more than fifteen gaming machines if they do not provide any designated services apart from those listed in these AML/CTF Rules.

If the reporting entity is related to one or more reporting entities within the meaning of section 50 of the *Corporations Act 2001*, the exemption will apply only if the related reporting entities collectively do not have an entitlement to operate no more than 15 gaming machines and do not provide any designated services apart from those listed in these AML/CTF Rules.

Due to the level of money laundering and terrorism financing risk posed by reporting entities covered by these AML/CTF Rules, it is considered an unnecessary financial and administrative burden for them to comply with all the requirements of the AML/CTF Act. These AML/CTF Rules do not remove the obligation on reporting entities with an entitlement to operate no more than 15 gaming machines to make suspicious matter reports under section 41 of the Act.

The following Table sets out the provisions of the AML/CTF Act from which reporting entities are exempt:

<b>Class of Provision</b>	<b>Application</b>	<b>Relevant to</b>
Part 2, Division 2	Whole division	Identification procedures for pre-commencement customers
Part 2, Division 3	Whole division	Identification procedures for low-risk customers
Part 2, Division 4	Whole division	Applicable customer identification procedures
Part 2, Division 5	Whole division	Verification of customer identity
Part 2, Division 6	Whole division	Ongoing customer due diligence
Part 2, Division 7	Sections 37, 38	General provisions relating to applicable customer identification procedures
Part 3, Division 3	Section 43 only	Threshold transaction reports.
Part 3, Division 4	Section 45 only	International funds transfer instructions reports. Section 46 defines an 'international funds transfer instructions'. Reporting entities are not exempt from the definitions contained in the AML/CTF Act
Part 3, Division 5	Whole division	Compliance reports
Part 5	Whole Part	Electronic funds transfer instructions
Part 7	Whole Part	AML/CTF Programs
Part 10	Sections 104, 105, 106, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119 only	Exempt from record keeping provisions except for section 107 which relates to keeping transaction records and

		section 108 which relates to documents provided by customers.
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Chapter 52 will not exempt the relevant reporting entities from Parts 11 to 18 of the AML/CTF Act as these are the machinery provisions of the Act. They comprise:

Part 11	Secrecy and Access
Part 12	Offences
Part 13	Audit
Part 14	Information-gathering powers
Part 15	Enforcement
Part 16	Administration
Part 17	Vicarious liability
Part 18	Miscellaneous

These AML/CTF Rules do not expressly exempt a reporting entity from a provision of the AML/CTF Act, if the reporting entity is not caught by that provision.

## **2. Notes on sections**

### **Section 1**

This section sets out the name of the instrument, i.e. the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2011 (No.3)*.

### **Section 2**

This section specifies that Schedule 1 commences on the day after it is registered.

### **Section 3**

This section contains the Schedule which amends *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)* as follows:

#### **Schedule 1**

This schedule adds Chapter 52.

## **3. Notes on paragraphs**

### **Chapter 52**

#### **Paragraph 52.1**

This paragraph specifies that these AML/CTF Rules have been made under section 229 of the AML/CTF Act for the purposes of subsection 247(4) of that Act.

## **Paragraph 52.2**

This paragraph contains a Table setting out those provisions of the AML/CTF Act that do not apply to reporting entities providing the designated services listed in paragraph 52.3 in the circumstances specified in paragraph 52.4.

## **Paragraph 52.3**

This paragraph lists the designated services which the provisions of the AML/CTF Act set out in the Table in paragraph 52.2 do not apply if the circumstances specified in paragraph 52.4 are met.

## **Paragraph 52.4**

This paragraph specifies the circumstances which must apply to allow a reporting entity to use the exemption specified in paragraph 52.2.

### **4. Legislative instruments**

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

### **5. Likely impact**

These AML/CTF Rules will have a beneficial impact on any reporting entity that provides a designated service in the circumstances covered by these Rules.

### **6. Assessment of benefits**

These AML/CTF Rules will exempt relevant reporting entities from certain provisions of the AML/CTF Act in specified circumstances and accordingly will substantially reduce compliance costs for those reporting entities.

### **7. Consultation**

AUSTRAC has consulted with the Office of the Australian Information Commissioner, the Australian Customs and Border Protection Service, the Australian Federal Police, the Australian Taxation Office and the Australian Crime Commission, in relation to these AML/CTF Rules.

In addition, AUSTRAC consulted widely with State law enforcement agencies, reporting entities providing the relevant designated services and with industry associations.

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

### **8. Ongoing consultation**

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