



## **Australian Government**

### **Australian Transaction Reports and Analysis Centre**

#### **Explanatory Statement – *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Determination 2012 (No. 1)***

##### **1. Purpose and operation of *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Determination 2012 (No. 1)***

1. The *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011* (the Levy Act), is part of the legislation necessary to give effect to the 2010-11 Budget announcement that AUSTRAC will recover the costs of its supervisory activities from 1 July 2011.
2. The Levy Act imposes the levy which, in conjunction with section 7 of the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Act 2011*, makes the levy payable by a leviable entity. A ‘leviable entity’ is a reporting entity which has provided a designated service within the previous financial year and is or must have been enrolled on the ‘census day’. Mandatory enrolment is necessary to accurately determine the amount of levy payable by leviable entities.
3. The ‘census day’ is the day on which a reporting entity’s liability to pay the levy is determined by the AUSTRAC CEO by legislative instrument. By *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Determination 2012 (No. 1)*, the AUSTRAC CEO has determined that the census day for the 2011-12 financial year is ‘10 February 2012’.
4. It is anticipated that the census day for subsequent financial years will be 1 July or a day determined by the AUSTRAC CEO by legislative instrument.

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

5. The *Human Rights (Parliamentary Scrutiny) Act 2011* was passed on 25 November 2011 and came into effect on 4 January 2012. It introduces a requirement for Statements of Compatibility to accompany all new Bills and disallowable legislative instruments.

6. The Statement of Compatibility for the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Determination 2012 (No. 1)*, is included in this Explanatory Statement at page 4. 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 lists in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

## **2. Notes on sections**

### **Section 1**

This section sets out the name of the Instrument, i.e. the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Determination 2012 (No. 1)*.

### **Section 2**

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

### **Section 3**

This section contains the determination of the AUSTRAC CEO that the census day for the 2011-12 financial year is '10 February 2012'.

## **3. Legislative instruments**

This Determination is a legislative instrument as defined in section 5 of the *Legislative Instruments Act 2003*.

## **4. Likely impact**

The Determination will have an impact on any reporting entity which is a 'leviable entity' and is liable to pay the levy enacted under the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Act 2011*.

## **5. Assessment of benefits**

The Determination provides certainty to leviable entities in regard to the precise date of the 'census day'.

## **6. Consultation**

AUSTRAC has consulted with the Australian Taxation Office, the Australian Customs and Border Protection Service, the Australian Federal Police, the Australian Crime Commission and the Office of the Australian Information Commissioner. AUSTRAC also published the Determination on the AUSTRAC website for the period 10 January 2012 to 17 January 2012.

## **8. Ongoing consultation**

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

## **Statement of Compatibility with Human Rights**

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

### ***Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Determination 2012 (No. 1)***

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 *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011* imposes a levy which, in conjunction with section 7 of the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Act 2011*, makes the levy payable by a leviable entity. A 'leviable entity' is a reporting entity which has provided a designated service within the previous financial year and is or must have been enrolled on the 'census day'. Mandatory enrolment is necessary to enable AUSTRAC to accurately determine the amount of levy payable by leviable entities.

The 'census day' is the day on which a reporting entity's liability to pay the levy is determined by the AUSTRAC CEO by legislative instrument. By *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Determination 2012 (No. 1)*, the AUSTRAC CEO has determined that the census day for the 2011-12 financial year is '10 February 2012'.

#### **Human rights implications**

This Instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Instrument is compatible with human rights as it does not raise any human rights issues.

John Lance Schmidt  
Chief Executive Officer  
Australian Transaction Reports and Analysis Centre