



Explanatory Statement – *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2019 (No. 1)* amending the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*

Purpose and operation of Anti-Money Laundering/Counter-Terrorism Financing Rules (AML/CTF Rules) amending Chapter 10

1. 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.

Amendments to Chapter 10 relating to the proposed *National Consumer Protection Framework for Online Wagering* (the National Framework)

2. Part 10.4 of the AML/CTF Rules sets out the special circumstances that justify carrying out the applicable customer identification procedure after commencement of the provision of online gambling services.
3. These amendments reduce the period within which a reporting entity is required to carry out the applicable customer identification procedure in relation to online wagering accounts from 90 days to 14 days as part of the implementation of the National Framework.
4. The amendments to Chapter 10 take effect on 26 February 2019. Reporting entities that commence to provide online gambling services to a customer on or after that date will be required to carry out the applicable customer identification procedure within 14 days. Where a reporting entity commenced to provide online gambling services to a customer before that date, the specified period remains 90 days.

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

5. The *Human Rights (Parliamentary Scrutiny) Act 2011* requires a Statement of Compatibility declaring that the relevant instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act.
6. The Statement of Compatibility for the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2019 (No. 1)* is included in this Explanatory Statement at page 3. 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 listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Notes on sections

Section 1

7. This section sets out the name of the Instrument, i.e. *the Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2019 (No. 1)*.

Section 2

8. This section specifies the commencement date of the amendments.

Section 3

9. This section contains details of the enabling legislation.

Section 4

10. This section contains the details of the amendments:

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

Schedule 1

11. This schedule amends Chapter 10 of the AML/CTF Rules.

Notes on items

Schedule 1

Item 1

12. This item amends paragraph 10.4.3 to reduce the period within which reporting entities need to carry out the applicable customer identification procedure for online wagering accounts from 90 days to 14 days.

Legislative instrument

13. These AML/CTF Rules are a legislative instrument as defined in section 8 of the *Legislation Act 2003*.

Likely impact

14. A Decision Regulatory Impact Statement on the National Framework was prepared by the Department of Social Services in consultation with other Commonwealth departments and state and territory officials. The total regulatory impact of reducing the customer verification period is \$0.90m regulatory cost per year.

Consultation

15. The amendments to Chapter 10 were published for public consultation on the AUSTRAC website from 13 December 2018 to 24 January 2019.
16. AUSTRAC has consulted with the Australian Taxation Office, the Department of Home Affairs, the Australian Federal Police, the Australian Criminal Intelligence Commission and the Office of the Australian Information Commissioner in developing the amendments.

Ongoing consultation

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

Statement of Compatibility with Human Rights

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

Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2019 (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

Part 10.4.3 of the AML/CTF Rules currently allows a 90 day period for providers of online gambling accounts to carry out the applicable customer identification procedure after commencement of the provision of the designated service. The Instrument reduces this period to 14 days.

Human rights implications

This Instrument does not engage any of the applicable rights or freedoms, including the right to privacy and reputation.

While reporting entities are required to collect personal information about certain customers when carrying out customer verification, this Instrument does not amend the existing requirements in relation to the types of information collected about customers. The Instrument merely reduces the period for carrying out customer verification in relation to online gambling accounts to implement one of the consumer protection measures from the *National Consumer Protection Framework for Online Wagering*.

Reporting entities collect personal information for customer verification purposes to comply with the requirement of the *Anti-Money Laundering and Counter Terrorism-Financing Act 2006* (AML/CTF Act) to mitigate and manage the risk of money laundering and financing of terrorism when providing designated services. The collection of personal information is therefore not an arbitrary or unlawful

interference with privacy. Furthermore, the collection is necessary, reasonable, and proportionate to achieving the legitimate object of the AML/CTF Act.

AUSTRAC considers that the Instrument does not to engage any of the applicable rights or freedoms, including the right to privacy articulated in Article 17 of the *International Covenant on Civil and Political Rights*.

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