

EXPLANATORY STATEMENT

Issued by authority of the AUSTRAC CEO

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

*Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment
Instrument 2020 (No. 4)*

AUTHORITY

Section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) provides that the AUSTRAC CEO may, by legislative instrument, make Anti-Money Laundering and Counter-Terrorism Financing Rules (AML/CTF Rules). These rules are set out in the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*.

PURPOSE AND OPERATION OF THE INSTRUMENT

The purpose of the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2020 (No. 4)* (the Amendment Instrument) is to amend Chapter 77 of the AML/CTF Rules.

Chapter 77 of the AML/CTF Rules exempts a reporting entity from the applicable customer identification procedure (ACIP) in section 32 of the AML/CTF Act when making payments to a member of a superannuation fund or a retirement savings account holder, provided the payment has been approved by the Australian Taxation Office (ATO) as part of the early release of superannuation initiative established under the *Coronavirus Economic Response Package Omnibus Act 2020*.

The Chapter requires an individual to submit an application to the ATO during the period 15 April 2020 to 24 September 2020. This period was fixed by reference to the time-limited early release provisions in Schedule 13 of the *Coronavirus Economic Response Package Omnibus Act 2020*. These early release provisions have been amended by *Treasury Laws Amendment (Release of Superannuation on Compassionate Grounds) Regulations (No. 3) 2020*, which extends the application period to 31 December 2020.

This Instrument amends Chapter 77 by substituting “24 September 2020” with “31 December 2020.”

The Amendment Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Amendment Instrument are set out in [Attachment A](#).

A Statement of Compatibility with Human Rights is at [Attachment B](#).

CONSULTATION

Consultation has been undertaken with the ATO and Department of Home Affairs. Because the amendment is minor or machinery in nature, public consultation has not taken place.

REGULATION IMPACT STATEMENT

The Office of Best Practice and Regulation has advised that the proposed amendment is a minor or machinery change that is unlikely to have a regulatory impact on business,

community organisations or individuals. Therefore, the preparation of a Regulation Impact Statement was not required for the proposal.

ATTACHMENT A

Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2020 (No. 4)

Section 1 – Name

This section provides that the name of the Instrument is the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2020 (No. 4)*.

Section 2 – Commencement

The Instrument commences on the day after it is registered on the Federal Register of Legislation.

Section 3 – Authority

The Instrument is made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

Section 4 – Schedules

This section provides that the instrument specified in Schedule 1 is amended as set out in the applicable items in that Schedule.

Schedule 1—Amendments

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

Notes on items

Item 1

This item amends subparagraph 77.3(1) of the AML/CTF Rules to extend the application period from 24 September 2020 to 31 December 2020.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Australian Human Rights Commission Regulations 2019

This Disallowable Legislative Instrument (the 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 Instrument

The purpose of this Instrument is to amend Chapter 77 of the AML/CTF Rules to supplement new regulations that extend the period during which individuals affected by the adverse economic effects of the COVID-19 pandemic can apply to the Australian Taxation Office for the early release of funds from their superannuation or retirement savings account.

This Instrument has been made in response to new regulations that extend the application period from 24 September 2020 to 31 December 2020.

Human rights implications

The *Human Rights (Parliamentary Scrutiny) Act 2011* requires that Statements of Compatibility must be made by the rule-maker with regard to disallowable legislative instruments, and must contain an assessment of whether the legislative instrument is compatible with the rights and freedoms recognised in the seven core international human rights treaties that Australia has ratified.

AUSTRAC is satisfied that none of the applicable rights or freedoms are engaged by this Instrument. The amendment to Chapter 77 of the AML/CTF Rules is minor or machinery in nature, and does not alter any existing rights or obligations.

Conclusion

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

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