



**Australian Government**

**Australian Transaction Reports  
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### **Explanatory note for consultation**

Under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act), the AUSTRAC CEO may make rules prescribing matters required or permitted by any other provisions of the AML/CTF Act.

These draft Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) Rules exempt reporting entities from the AML/CTF Act who provide the item 42(a) (superannuation fund accepting a contribution, roll-over or transfer) and 43(a) (cashing the whole or part of an interest held by a member of the fund) designated services, in respect to risk-only life policy interests in a superannuation fund.

A risk-only life policy is a life policy which only provides insurance against a future event, such as death. As a result of the definition of ‘life policy’ in section 5 of the AML/CTF Act, the provision of risk-only life policies by life insurance companies are carved out as a designated service from item 38 and item 39 in table 1 of subsection 6 of the AML/CTF Act. Accordingly the AML/CTF Act does not impose obligations on life insurers providing such policies. However, since the provision of risk-only life policies by superannuation funds are captured by items 42 and 43 as a designated service, trustees of superannuation funds are required to comply with the relevant obligations under the AML/CTF Act.

These draft AML/CTF Rules ensure that superannuation funds providing interests in risk-only life policies (but not as product issuers), are treated in the same manner under the AML/CTF Act as life insurers providing such policies.



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#### **Draft Anti-Money Laundering and Counter-Terrorism Financing Rules relating to risk only life policy interests in a superannuation fund**

1. These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 247(3) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
2. Subject to Paragraph 3, the AML/CTF Act does not apply to a designated service that:
  - (1) is of a kind described in item 42(a) of table 1 in subsection 6(2) of the AML/CTF Act; or
  - (2) is of a kind described in item 43(a) of table 1 in subsection 6(2) of the AML/CTF Act.
3. The exemption in paragraph 2 applies only if:
  - (1) the provision of the designated service relates to an interest of a member in the superannuation fund where the only interest of the member in the superannuation fund is an actual or potential entitlement under a risk only life policy that:
    - (a) has been acquired by the trustee of the superannuation fund from a life insurer on behalf of the member of the superannuation fund; and
    - (b) is held by the trustee of the superannuation fund as the policy holder; and
  - (2) the member of the superannuation fund does not have an accumulated balance or account in the superannuation fund; and
  - (3) in respect to a designated service which falls within subparagraph 2(2) of these Rules, on the occurrence of an event specified in the risk only life policy, the trustee of the superannuation fund exercises its discretion to cash out the whole of the interest in the risk only life policy in respect of the member of the superannuation fund; and
  - (4) the account in which the interest of the member of the superannuation fund in the risk only life policy is held, is closed as soon as practicable after the interest is cashed out to the member.

4. In these Rules:

- (1) 'member' has the same meaning as the customer of the designated service in items 42 or 43 (as applicable) of table 1 in subsection 6(2) of the AML/CTF Act;
- (2) 'risk only life policy' is a life policy which falls outside the definition of 'life policy' in section 5 of the AML/CTF Act and, in particular, is a life policy in respect of which:
  - (a) a single lump sum amount is, or instalment amounts are, payable to the trustee of the superannuation fund as policy holder, on the occurrence of an event specified in the policy relating to the death or disability of the member of the superannuation fund, and
  - (b) there is no prescribed minimum surrender value (other than that which may be provided for in the policy documentation and promotional material) or no investment component.

For the purposes of this definition, the question of whether a policy has a prescribed minimum surrender value is to be determined in accordance with the prudential standards made under section 230A of the *Life Insurance Act 1995* as in force from time to time.

*Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the National Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.privacy.gov.au> or call 1300 363 992.*