



## Explanatory note for consultation – draft amendments to Chapter 11

Reporting entities are required to submit a compliance report in accordance with section 47 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) and Chapter 11 of the *Anti-Money Laundering and Counter-Terrorism Financing Rules 2007* (AML/CTF Rules) for each calendar year, unless exempted. Chapter 11 of the AML/CTF Rules sets out the reporting and lodgement periods for compliance reports and lists exemptions from the obligation.

The draft amendments to Chapter 11 remove the references to the 2018 reporting and lodgement periods and sets those periods for 2019 and future years. The draft amendments also simplify the expression of the circumstances in which registered remittance affiliates (**RRA**) are exempted from the compliance reporting obligations.

RRAs of a registered remittance network provider will continue to be exempt from the requirement to submit a Compliance Report if they only provide item 31 or 32 designated services during the reporting period in their capacity as an RRA. However, if during the reporting period, an RRA provides a designated service in addition to item 31 or 32 designated service in their capacity as an RRA, they will be required to submit a Compliance Report with respect to all designated services they provided during that reporting period including those as a RRA.

Additions to the AML/CTF Rules are in **bold** font and deletions are shown in ~~strike through~~.

### ***Human Rights (Parliamentary Scrutiny) Act 2011* requirements**

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.

It is considered that the draft amendments do not engage any of the human rights and freedoms recognised or declared in the international instruments listed in the definition of 'human rights' in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

## CHAPTER 11 Compliance Report – ~~R~~eporting and ~~L~~odgment periods

- 11.1 These Rules are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the AML/CTF Act) for the purposes of subsections 47(1), 47(2) and 247(4) of the AML/CTF Act.

### *Reporting and lodgment periods*

- 11.2 A reporting period is **specified to be each successive period of 12 months beginning on 1 January and ending on 31 December** ~~each calendar year.~~
- 11.3 The lodgment period is **specified to be the period of 3 months beginning at the end of each successive reporting period** ~~2 January to 31 March in the calendar year immediately following the end of the reporting period.~~

### *Exemption from compliance reporting*

- 11.4 For subsection 247(4) of the AML/CTF Act, subsections 47(1) and 47(2) of that Act **do not apply in circumstances where the reporting entity:** ~~are specified in relation to:~~

- ~~(1) the reporting period as specified in subparagraph 11.2 for 2018; and~~
- ~~(2) the lodgment period as specified in subparagraph 11.3 for 2019;~~

~~in the following circumstances:~~

- ~~(3) in the 2018 calendar year, the reporting entity:~~
  - (1) only provided designated services **during the reporting period** of the kind set out in items 31 and 32 of table 1 in subsection 6(2) of the AML/CTF Act as a registered remittance affiliate; and
  - (2) did not provide any other designated service.



## **DRAFT Anti-Money Laundering and Counter-Terrorism Financing Amendment (Compliance Report – reporting and lodgment periods) Rules 2019 (No. 3)**

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I, [Name of rule maker], [position of rule maker], Australian Transaction Reports and Analysis Centre, make the following Rule under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Dated    Click or tap to enter a date.

[Name of rule maker] **DRAFT ONLY—NOT FOR SIGNATURE**

[Position of rule maker]

Australian Transaction Reports and Analysis Centre

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## **1 Name**

This instrument is the *DRAFT Anti-Money Laundering and Counter-Terrorism Financing Amendment (Compliance Report – reporting and lodgment periods) Rules 2019 (No. 3)*.

## **2 Commencement**

This instrument commences the day after registration.

## **3 Authority**

This instrument is made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

## **4 Schedules**

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

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

#### 1 Chapter 11

Repeal the Chapter, substitute:

### **CHAPTER 11 Compliance Report – reporting and lodgment periods**

- 11.1 These Rules are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the AML/CTF Act) for the purposes of subsections 47(1), 47(2) and 247(4) of the AML/CTF Act.

#### *Reporting and lodgment periods*

- 11.2 A reporting period is specified to be each successive period of 12 months beginning on 1 January and ending on 31 December.
- 11.3 The lodgment period is specified to be the period of 3 months beginning at the end of each successive reporting period.

#### *Exemption from compliance reporting*

- 11.4 For subsection 247(4) of the AML/CTF Act, subsections 47(1) and 47(2) of that Act do not apply in circumstances where the reporting entity:
- (1) only provided designated services during the reporting period of the kind set out in items 31 and 32 of the table in subsection 6(2) of the AML/CTF Act as a registered remittance affiliate; and
  - (2) did not provide any other designated service.