



EXPLANATORY STATEMENT

Issued by authority of the Acting AUSTRAC CEO

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

*Anti-Money Laundering and Counter-Terrorism Financing Rules (Part 10.4)
Amendment Instrument 2023*

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**). The AML/CTF 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 *Anti-Money Laundering and Counter-Terrorism Financing Rules (Part 10.4) Amendment Instrument 2023* (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 (the **Statement**) is at [Attachment B](#). The Statement was completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Amendment Instrument is compatible with them.

Background

Amendment to Chapter 10 implementing changes to the National Consumer Protection Framework for Online Wagering (the National Framework)

1. 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.
2. Where the special circumstances apply, paragraph 10.4.4 of the AML/CTF Rules sets out the period in which the reporting entity is required to carry out the applicable customer identification procedure, in relation to online gambling services.
3. The Commonwealth, State and Territory governments are responsible for implementing the National Framework. Amongst other matters, the

National Framework addresses the timeframe in which online wagering providers are required to verify their customers' identity.

4. Following agreement between Commonwealth, State and Territory ministers responsible for gambling (the **ministers**), in May 2022, the period within which reporting entities are required to carry out the applicable identification procedure in relation to online gambling accounts was reduced from 14 days to 72 hours through an amendment to Part 10.4 of the AML/CTF Rules.
5. The ministers have now agreed to implement pre-verification for online gambling accounts. This Instrument operationalises that agreement by repealing Part 10.4 of the AML/CTF Act.
6. The repeal of Part 10.4 takes effect on 29 September 2023. 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 before commencing to provide the designated service to the customer. Where a reporting entity commenced to provide online gambling services to a customer before that date, the specified period remains 72 hours.

CONSULTATION

7. Draft AML/CTF Rules were released on Monday 7 August 2023 for a four-week period of public consultation.

SUNSETTING

8. Under item 6 of Regulation 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* this Instrument is not subject to sunseting.
9. The AML/CTF Rules are designed to be enduring because they:
 - (a) complement and provide the detail for the broader obligations set out in the AML/CTF Act, aid in meeting Australia's international obligations and matters of international concern, and support the combatting of money laundering and terrorism financing,
 - (b) assist industry in fulfilling their compliance with the AML/CTF Act and provide commercial and regulatory certainty for industry, and
 - (c) are subject to an ongoing process of development, refinement and review, involving scrutiny and feedback from a wide range of stakeholders including industry, the Financial Action Task Force, Australian Government agencies, law enforcement agencies, and other interested parties.

REGULATION IMPACT STATEMENT

10. The Office of Impact Assessment has advised that the Regulatory Impact Statement completed in 2018 for the National Framework can be used to meet the Impact Analysis requirements for this AML/CTF Rules amendment.
11. The Regulatory Impact Statement indicates that mandatory verification prior to any wagering activity is likely to have the same regulatory impact on industry as options which permit a delayed verification period of between 21 days and 72 hours.

DRAFT

ATTACHMENT A

Anti-Money Laundering and Counter-Terrorism Financing Rules (Part 10.4) Amendment Instrument 2023

Section 1—Name

This section provides that the name of the Instrument is the *Anti-Money Laundering and Counter-Terrorism Financing Rules (Part 10.4) Amendment Instrument 2023*.

Section 2—Commencement

This section provides for the commencement of each provision in the Instrument, as set out in the table in subsection 2(1).

The amendments in Schedule 1 commence on 29 September 2023.

Section 3—Authority

This section provides that 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—Repeals

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

Notes on items

Item 1—Chapter 10

This item repeals Part 10.4.

ATTACHMENT B

STATEMENT OF COMPATABILITY WITH HUMAN RIGHTS

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

Australian Human Rights Commission Regulations 2019

Amendments to the Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1) (AML/CTF Rules) amending Chapter 10

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

(i) *Repeal of Part 10.4 of the AML/CTF Rules*

The Instrument amends Chapter 10 by repealing Part 10.4. Commonwealth, State and Territory ministers responsible for gambling have agreed to implement pre-verification of customers for online gambling accounts. This Instrument operationalises that agreement by repealing Part 10.4 of the AML/CTF Act.

Reporting entities that commence to provide online gambling services to a customer on or after the commencement date will be required to carry out the applicable customer identification procedure before commencing to provide the designated service to the customer.

Human rights implications

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

Conclusion

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

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