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Explanatory note for consultation – draft amendments to Chapter 11 Compliance Report – Reporting and Lodgment periods

Chapter 11 of the *Anti-Money laundering and Counter-Terrorism Financing Rules 2007* (AML/CTF Rules) specifies the reporting and lodgment periods applicable to the compliance reporting obligation in section 47 (AML/CTF compliance reports) of the *Anti-Money laundering and Counter-Terrorism Financing Act 2006* (**AML/CTF Act**). This obligation requires reporting entities to provide a report to the AUSTRAC CEO regarding their compliance with the AML/CTF Act, Rules and Regulations.

The requirement to lodge an annual Compliance Report for the 2017 calendar year was suspended to allow consultation and review of the content and form design with reporting entities. The new Compliance Report was co-designed with industry to ensure the questions are clear, relevant and unambiguous, providing an improved user experience for reporting entities.

AUSTRAC had previously exempted registered remittance network providers (**RNPs**) and their affiliates from compliance reporting obligations for the period from 2012 to 2016, due to incompatibility with the compliance reporting framework. Following the re-design of the Compliance Report this exemption is no longer considered necessary for RNPs.

Registered remittance affiliates of a registered RNP will continue to be exempt from the requirement to submit a Compliance Report. However, if an affiliate provides a designated service in addition to items 31 or 32 of section 6 of the AML/CTF Act in 2018, then they will be required to submit a Compliance Report for that year with respect to all designated services which they provide.

Additionally, the draft amendments to Chapter 11 exempt reporting entities who in 2018 ceased, and did not recommence, to provide a designated service.

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 are compatible with 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*.



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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. ~~They specify the reporting period and the lodgment period for a compliance report, under subsection 47(1) of the AML/CTF Act.~~
- 11.2. ~~For paragraph 47(1)(a) of the AML/CTF Act, a~~ reporting period is each calendar year.
- 11.3. ~~For paragraph 47(1)(b) of the AML/CTF Act, t~~The lodgment period ~~for paragraph 11.2, is the period beginning on the first business day in~~ **1 January to 31 March** in the calendar year immediately following the end of the reporting period. ~~and ending on 31 March of that calendar year.~~

Exemption relating to compliance reporting and compliance report lodgment periods

- 11.4. For subsection 247(4) of the AML/CTF Act, subsections 47(1) and 47(2) of that Act 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 is a registered remittance affiliate that only provides designated services of the kind set out in items 31 and 32 of table 1 in subsection 6(2) of the AML/CTF Act; or
 - (4) in the 2018 calendar year, the reporting entity ceased and did not recommence to provide a designated service.**
 - ~~(4) in the 2016 calendar year, the reporting entity is a registered remittance network provider that only provides a designated service of the kind set out in item 32A of table 1 in subsection 6(2) of the AML/CTF Act.~~

~~11.5. In this Chapter:~~

- ~~(1) ‘The first business day in January’ is the first day in each January which is not a Saturday, a Sunday or a public holiday in Australia.~~

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 Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.oaic.gov.au> or call 1300 363 992