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## **Explanatory note for consultation – draft amendments to Chapter 10 resulting from the proposed *National Consumer Protection Framework for Online Wagering***

The Commonwealth, State, and Territory governments are implementing a *National Consumer Protection Framework for Online Wagering* (the **National Framework**). Amongst other matters, the National Framework addresses the issue of customer verification periods for online wagering accounts.

This requires amendments to Part 10.4 of the *Anti-Money laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)* (**AML/CTF Rules**). Part 10.4 sets out the special circumstances that justify carrying out the applicable identification procedure after commencement of the provision of online gambling services.

These draft AML/CTF Rules amend paragraph 10.4.3 of the AML/CTF Rules to reduce the customer verification period from 90 days to 14 days.

The National Framework commenced on 26 November 2018. It requires the amendments to the AML/CTF Rules to take effect no later than 3 months from that date. AUSTRAC welcomes views from reporting entities impacted by the proposed amendments as to whether a proposed commencement date of 26 February 2019 will provide sufficient time for the necessary changes to their internal systems and controls to be implemented.

Additions to both of the AML/CTF Rules are in **bold** font and deletions are shown in ~~strikethrough~~.

### **Human Rights Statement of Compatibility**

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*.



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## **Part 10.1      Casinos**

10.1.1 These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made pursuant to section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

10.1.2 These Rules at paragraphs 10.1.3 to 10.1.8 apply with respect to designated services provided by casinos other than online gambling services.

### *Customer identification*

10.1.3 These Rules at paragraphs 10.1.4 to 10.1.6 are made pursuant to subsection 39(4) of the AML/CTF Act.

10.1.4 Subject to paragraph 10.1.6 of these Rules, the provisions in Division 4 of Part 2 of the AML/CTF Act do not apply in respect of a designated service that:

- (1) is of a kind described in items 1, 2, 4, 6, 7, 8 or 9 of table 3 of section 6; and
- (2) involves an amount less than \$10,000.

10.1.5 Subject to paragraph 10.1.6 of these Rules, the provisions in Division 4 of Part 2 of the AML/CTF Act do not apply in respect of a designated service that is of a kind described in items 1, 2, 4, 6 or 9 of table 3 of section 6 where the service:

- (1) involves an amount of \$10,000 or more; and
- (2) involves the customer giving or receiving only gaming chips or tokens.

10.1.6 The exemptions in paragraphs 10.1.4 and 10.1.5 of these Rules do not apply in circumstances where a reporting entity determines in accordance with its enhanced customer due diligence program that it should obtain and verify any KYC information in respect of a customer in accordance with its customer identification program.

### *Verification of identity*

10.1.7 The requirements specified in paragraphs 6.2.3, 6.3.2 and 6.4.2 of these Rules are modified as follows in respect of a reporting entity that is a casino:

- (1) the specified action in paragraph 6.2.3 must be taken within 14 days starting after the day on which the circumstance specified in paragraph 6.2.1 comes into existence, or before the reporting entity commences to provide another designated service to which Part 2 of the AML/CTF Act applies, to the customer;

- (2) the specified action in paragraph 6.3.2 must be taken within 14 days starting after the day on which the suspicious matter reporting obligation arose, or before the reporting entity commences to provide another designated service to which Part 2 of the AML/CTF Act applies, to the customer;
- (3) the specified action in paragraph 6.4.2 must be taken within 14 days starting after the day on which the suspicious matter reporting obligation arose, or before the reporting entity commences to provide another designated service to which Part 2 of the AML/CTF Act applies, to the customer.

#### *Record-keeping*

10.1.8 This Rule is made pursuant to subsections 118(2) and (4) of the AML/CTF Act. Sections 106 and 107 of the AML/CTF Act do not apply to a designated service of a kind described in:

- (1) items 1, 2, or 6 of table 3 of section 6; or
- (2) item 4 of table 3 of section 6 to the extent that the service is provided by giving the customer only gaming chips or tokens.

### **Part 10.2 On-course bookmakers and totalisator agency boards**

10.2.1 These Rules at paragraphs 10.2.2 to 10.2.7 apply with respect to designated services provided by a reporting entity that is an on-course bookmaker or a totalisator agency board.

#### *Customer identification*

10.2.2 These Rules at paragraphs 10.2.3 to 10.2.5 are made pursuant to subsection 39(4) of the AML/CTF Act.

10.2.3 Subject to paragraph 10.2.5 of these Rules, the provisions in Division 4 of Part 2 of the AML/CTF Act do not apply in respect of a designated service of a kind described in items 1 or 2 of table 3 of section 6.

10.2.4 Subject to paragraph 10.2.5 of these Rules, the provisions in Division 4 of Part 2 of the AML/CTF Act do not apply in respect of a designated service of a kind described in item 4 of table 3 of section 6 where that service involves an amount less than \$10,000.

10.2.5 The exemptions in paragraphs 10.2.3 and 10.2.4 of these Rules do not apply in circumstances where a reporting entity determines in accordance with its enhanced customer due diligence program that it should obtain and verify any KYC information in respect of a customer in accordance with its customer identification program.

#### *Record-keeping*

10.2.6 This Rule is made pursuant to subsections 118(2) and (4) of the AML/CTF Act. Sections 106 and 107 of the AML/CTF Act do not apply to a designated service of a kind described in items 1, 2, or 6 of table 3 of section 6.

### *Verification of identity*

10.2.7 The requirements specified in paragraphs 6.2.3, 6.3.2 and 6.4.2 of these Rules are modified as follows in respect of a reporting entity which provides a designated service that is an on-course bookmaker or a totalisator agency board:

- (1) the specified action in paragraph 6.2.3 must be taken within 14 days starting after the day on which the circumstance specified in paragraph 6.2.1 comes into existence, or before the reporting entity commences to provide another designated service to which Part 2 of the AML/CTF Act applies, to the customer;
- (2) the specified action in paragraph 6.3.2 must be taken within 14 days starting after the day on which the suspicious matter reporting obligation arose, or before the reporting entity commences to provide another designated service to which Part 2 of the AML/CTF Act applies, to the customer;
- (3) the specified action in paragraph 6.4.2 must be taken within 14 days starting after the day on which the suspicious matter reporting obligation arose, or before the reporting entity commences to provide another designated service to which Part 2 of the AML/CTF Act applies, to the customer.

### **Part 10.3 Gaming machines**

10.3.1 These Rules at paragraphs 10.3.2 to 10.3.5 apply with respect to a designated service provided by a reporting entity by way of a gaming machine other than designated services provided at a casino.

#### *Customer identification*

10.3.2 The Rules at paragraphs 10.3.3 to 10.3.5 are made pursuant to subsection 39(4) of the AML/CTF Act.

10.3.3 Subject to paragraph 10.3.5 of these Rules, the provisions in Division 4 of Part 2 of the AML/CTF Act do not apply in respect of a designated service of a kind described in items 5 or 6 of table 3 of section 6.

10.3.4 Subject to paragraph 10.3.5 of these Rules, the provisions in Division 4 of Part 2 of the AML/CTF Act do not apply in respect of a designated service of a kind described in items 9 or 10 of table 3 of section 6 where that service involves an amount less than \$10,000.

10.3.5 The exemptions in paragraphs 10.3.3 and 10.3.4 do not apply in circumstances where a reporting entity determines in accordance with its enhanced customer due diligence program that it should obtain and verify any KYC information in respect of a customer in accordance with its customer identification program.

## **Part 10.4 Accounts for online gambling services**

*Special circumstances that justify carrying out the applicable identification procedure after commencement of the provision of a designated service*

10.4.1 Subject to the condition specified in paragraph 10.4.2, online gambling services are specified for the purposes of paragraph 33(a) of the AML/CTF Act.

10.4.2 For the purposes of paragraph 33(b) of the AML/CTF Act, the special circumstances in respect of online gambling services are only available if:

- (1) the customer is required to open an account in order to obtain the service; and
- (2) the reporting entity does not permit the customer to withdraw any funds from the account prior to carrying out the applicable customer identification procedure-

*The period ascertained in accordance with subparagraph 34(1)(d)(i) of the AML/CTF Act*

10.4.3 **For the purposes of This Rule is made pursuant to** subparagraph 34(1)(d)(i) of the AML/CTF Act. ~~In respect the designated services specified in paragraph 10.4.1 above,~~ the period is ~~90~~ **14** days commencing on the day that the reporting entity opens the account in the name of the customer.

*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.*