

8 April 2022

Director, Policy and Rules
Australian Transaction Reports and Analysis Centre
PO Box 5516
West Chatswood NSW 1515

By email: aml_ctf_rules@austrac.gov.au

Dear Sir/Madam,

Consultation on proposed draft amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1) (Cth) (AML/CTF Rules)*

1. This submission is made by the Financial Services Committee of the Business Law Section of the Law Council of Australia (the **Committee**) and relates to draft amendments to the AML/CTF Rules released by the Australian Transaction Reports and Analysis Centre (**AUSTRAC**) for consultation on 11 March 2022 concerning:
 - (a) amendments to:
 - (i) Chapter 10 (Part 10.4 – Accounts for online gambling services);
 - (ii) Chapter 24 (Anti-Money Laundering and Counter-Terrorism Financing Rules for movements of physical currency into or out of Australia); and
 - (iii) Chapter 34 (Affixing of notices about cross-border movement reporting obligations);
 - (b) repeal of Chapters 25 (Anti-Money Laundering and Counter-Terrorism Financing Rules for receipts of physical currency from outside Australia) and 26 (Anti-Money Laundering and Counter-Terrorism Financing Rules for movements of bearer negotiable instruments into or out of Australia); and
 - (c) insertion of a new Chapter 81 (Financial Institutions – Exemption for applying for registration on the Digital Currency Exchange Register).
2. The Committee thanks AUSTRAC for the opportunity to make a submission on these proposed amendments.

Schedule 1 - Amendment to Chapter 10

3. The Committee has no comments about the reduction of the customer verification period from 14 days to 72 hours for online wagering providers from a legal or policy perspective.

4. The Committee notes that the proposed commencement date is 2 May 2022, which will be a relatively short time after the relevant amendment to the AML/CTF Rules.
5. The Committee understands that industry participants may have some operational concerns about the achievability of full compliance by the proposed commencement date due to the challenge of implementing system changes.

Schedule 2 – Amendment to Chapter 24, repeal of Chapters 25 and 26 and amendment of Chapter 34

6. The Committee notes that these proposed amendments align with legislative changes which have already been made to Part 4 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (**AML/CTF Act**) by the *Anti-Money Laundering and Counter-Terrorism Financing and Other Legislation Amendment Act 2020* (Cth), and which are due to commence on 17 June 2022.
7. The Committee has no comments on these amendments. Ideally the amending rules should be made a reasonable time before the commencement date (for example, no later than the first week of June 2022).

Schedule 3 - Introduction of Chapter 81

8. The Committee notes that the exemption for financial institutions which are already enrolled on the Reporting Entities Roll from the requirement to register on the Digital Currency Exchange Register is consistent with the legislative intention stated at paragraph 36 under Part 2 of the Revised Explanatory Memorandum (**EM**) to the *Anti-Money Laundering and Counter-Terrorism Financing Amendment Act 2017* (Cth), which amended the AML/CTF Act to regulate digital currency exchange providers.
9. The Committee does not object to this change but notes the unexplained five year delay between the statement being made in the EM and its implementation.
10. As the draft amending rules instrument does not specify a commencement date for Schedule 3, the Committee has assumed that this change will commence on the day after registration of the amending rules instrument,.

General observations

11. As a general observation, the Committee commends a drafting approach which provides names to Chapters of the AML/CTF Rules which reflect the content and subject matter of the relevant Chapter. The proposed new Chapter 81 is a good example of this.
12. Item 1 Name of the draft rules amendment instrument states that the name of the instrument is “**Error! Use the Home tab to apply ShortT to the text that you want to appear here.**”. The Committee assumes this was an oversight and that the amending rules instrument will be named the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2022 (No. 1)* when it is made.
13. The Committee would like to see the consultation material and other past consultation materials continue to be made available to users of the AUSTRAC website for future reference.
14. The Committee would be pleased to discuss any aspect of this submission.

15. Please contact the Chair of the Committee, Pip Bell, at pbell@pmclegal-australia.com if you would like to do so.

Yours faithfully

A handwritten signature in black ink, appearing to read 'P. Argy', with a long, sweeping flourish extending to the right.

Philip Argy
Chairman
Business Law Section