

2016-2017

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING
AMENDMENT BILL 2017**

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be Moved on Behalf of the Government

(Circulated by authority of the
Minister for Justice, the Hon Michael Keenan MP)

ACRONYMS

AML/CTF	Anti-money laundering and counter-terrorism financing
AML/CTF Act	<i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i>
AUSTRAC	Australian Transaction Reports and Analysis Centre
AUSTRAC CEO	Chief Executive Officer of the Australian Transaction Reports and Analysis Centre
ML	Money laundering
SVC	Stored Value Card
TF	Terrorism financing

AMENDMENTS TO THE ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING AMENDMENT BILL 2017

(Government)

GENERAL OUTLINE

1. The purpose of these amendments to the Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2017 ('the Bill') is to clarify the definition of stored value card (SVC) in the Bill and the treatment of certain betting products under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
2. The amendments would implement recommendations made by the Senate Legal and Constitutional Affairs Legislation Committee in their report on the provisions of the Bill, in particular in relation to the definition of SVC.
3. The amendments will:
 - create a new definition of 'betting instrument' in the AML/CTF Act
 - ensure that exchanging money or digital currency for betting instruments, or vice versa, are designated services for the purposes of the AML/CTF Act, and
 - clarify that betting instruments are not SVCs for the purposes of the amended definition set out in the Bill.

FINANCIAL IMPACT

4. The amendments to the Bill will be implemented within existing resources.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2017

5. The amendments to the Bill are 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 Bill

6. The amendments to the Bill will:
- create a new definition of ‘betting instrument’ in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act)
 - ensure that exchanging money or digital currency for betting instruments, or vice versa, are designated services for the purposes of the AML/CTF Act, and
 - clarify that betting instruments are not ‘stored value cards’ for the purposes of the amended definition set out in the Bill.

Human rights implications

7. The amendments to the Bill do not engage any of the applicable rights or freedoms.

Conclusion

8. The amendments to the Bill do not engage any of the applicable rights or freedoms.

NOTES ON AMENDMENTS

Overview

1. Together, amendments 1-3 will implement the recommendation of the Senate Legal and Constitutional Affairs Legislation Committee (the Committee) report in relation to the new definition of SVC in the Bill.
2. The Committee recommended that the Government consider whether the definition of SVC could be better defined with a view to addressing the uncertainty expressed by some submitters to the inquiry.
3. Following further consultation with stakeholders, the Government is moving amendments to clarify the status of certain betting products under the AML/CTF Act. In particular, the amendments will ensure that betting instruments are not captured as SVCs, but rather through the designated services under the AML/CTF Act which are specifically related to gambling products. This approach is consistent with the regulatory approach to gaming chips and tokens under the AML/CTF Act.

Amendment 1: Schedule 1, item 79, page 34 (line 4)

4. Amendment 1 to Schedule 1, item 79, page 34 (line 4) amends subparagraph (ii) of the definition of SVC in the Bill to specifically exclude betting instruments (which will be a new defined term in the AML/CTF Act as set out in amendment 2). This amendment will ensure that betting instruments are not considered to be SVCs for the purposes of the designated services related to SVCs under items 21-24 of Table 1 in subsection 6(2) of the AML/CTF Act.

Amendment 2: Item 79A

Item 79A

5. Item 79A inserts a new definition of 'betting instrument' in section 5 of the AML/CTF Act. This definition has been included to clarify the treatment of certain types of betting products under Australia's AML/CTF regime.
6. The definition is intended to be technologically neutral and captures all things, whether real or virtual, that represent monetary value or digital currency value and which are designed to be used for the purpose of, or for purposes which include, placing or making a bet, or paying out winnings in respect of a bet. Designated services related to placing or making bets, and paying out winnings in respect of bets, are regulated under items 1-4 of Table 3 in subsection 6(4) of the AML/CTF Act.
7. The new definition of betting instrument is broad enough to capture products at risk of misuse for ML or TF. It is intended to capture all instruments which are issued by gambling providers for the purposes of placing or making a bet or paying out winnings in respect of a bet, regardless of whether they are actually used for these purposes in any given case. For example, a betting instrument that is used to refund unused credit to a customer of a gambling provider, or is also accepted by a gambling provider as payment for other goods or services, will not cease to be a betting instrument by virtue of those other possible uses.

8. An example of a betting instrument for the purposes of this definition would be a single paper slip or voucher that is issued by a gambling provider and which can be redeemed as cash, used to place a bet or a combination of both.
9. To provide further clarity, certain exclusions from the definition are also set out in the provision.
10. Paragraph (c) excludes gaming chips and tokens, which are used for playing games of chance (or mixed chance and skill) for money or anything else of value, from the definition as services related to these items are regulated under separate provisions of the AML/CTF Act.
11. To provide additional clarity for industry, paragraph (d) of the new definition provides for a rule-making power for the AUSTRAC CEO to determine that certain things are not betting instruments for the purposes of the AML/CTF Act.

Amendment 3: Items 79B and 79C

Items 79B and 79C

12. Item 79B amends item 7 of Table 3 in subsection 6(4) of the AML/CTF Act to clarify that exchanging money or digital currency for gaming chips or tokens, or betting instruments, are designated services regulated under Australia's AML/CTF regime.
13. Item 79C amends item 8 of Table 3 in subsection 6(4) of the AML/CTF Act to clarify that exchanging gaming chips or tokens, or betting instruments for money or digital currency are designated services regulated under Australia's AML/CTF regime.