

14 December 2023



Attention Daniel Mossop
National Manager, Reform Policy and Mutual Evaluation
Australian Transaction Reports and Analysis Centre
PO Box K534
Haymarket NSW 1240

By email: aml_ctf_rules@austrac.gov.au

Dear Mr Mossop

Consultation on draft AML/CTF Rules and Explanatory Statement amending Chapter 21 of the Rules

1. This submission has been prepared on behalf of the Financial Services Committee of the Business Law Section of the Law Council of Australia (the **Committee**) in response to a draft instrument setting out proposed amendments to Chapter 21 of the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1) (Cth)* (the **Draft Instrument**) and an accompanying Explanatory Statement (the **Draft ES**), which were released for consultation on Wednesday, 15 November 2023 by the Australian Transaction Reports and Analysis Centre (**AUSTRAC**).
2. The Committee thanks AUSTRAC for providing the opportunity to comment on the Draft Instrument and allowing a reasonable time for stakeholders to provide feedback.

Draft Instrument—drafting note

3. The Committee has no objection to the amendments proposed in the Draft Instrument and has only one drafting-related comment to make—the full stop at the end of the definition of “rights issue” in rule 21.4(11) should be replaced by a semi-colon.

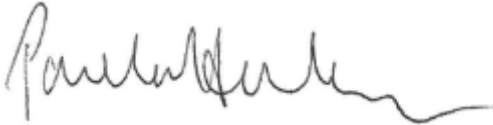
Draft ES

4. The Committee notes that paragraph 7 of the Draft ES states that AUSTRAC considered the associated risk and whether the rationale for exempting prescribed and foreign financial markets “applied similarly to Australian Securities Exchange Limited”. The Committee considers that it would be beneficial for public transparency if the Draft ES could:
 - (a) articulate the rationale for exempting prescribed and foreign financial markets; and
 - (b) clarify what conclusion AUSTRAC reached after making its assessment (i.e., what the assessed level of risk was and whether the rationale similarly applied).
5. Paragraph 10 of the Draft ES states that one of the rationales for specifying FEX Global Pty Ltd as an exempt financial market for the purposes of the Chapter 21

exemption is “the difficulty associated with identifying a buyer”. The Committee submits that it would be helpful if the Draft ES could provide further context as to “the difficulty associated with identifying a buyer”—by explaining, for example, *who* would have the relevant difficulty and *what* the so-called buyer would be acquiring.

6. If AUSTRAC has any questions or would like to further discuss with any matters raised in this submission with the Committee, please do not hesitate to contact the Committee’s Chair Pip Bell (committeechairfsc@gmail.com).

Yours faithfully

A handwritten signature in black ink, appearing to read 'Pamela Hanrahan', with a long, sweeping horizontal stroke at the end.

Dr Pamela Hanrahan
Chair
Business Law Section