



Australian Government

**Australian Transaction Reports
and Analysis Centre**

Explanatory note for consultation purposes

The Anti-Money Laundering and Counter-Terrorism Financing Regulations 2008 came into effect on 31 January 2008. As a result of these regulations, those in the business of issuing an interest in, or an option to acquire an interest in, a managed investment scheme (as a designated service) are required to comply with relevant obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

Even though such designated services have been captured by the AML/CTF Act since 31 January 2008, any new customers to whom interests in a managed investment scheme were issued by a company issuer between 12 December 2007 and 30 January 2008, would not be considered pre-commencement customers as defined in section 28 of the AML/CTF Act. However, it is Australian Government policy that such customers should be treated as pre-commencement customers. These draft AML/CTF Rules give effect to this policy.



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Draft Anti-Money Laundering and Counter-Terrorism Financing Rules for pre-commencement customers under Part 2 of the AML/CTF Act

1. These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) for subsection 39(3) of that Act.
2. Pursuant to subsection 39(3) of the AML/CTF Act, Part 2 of that Act does not apply during the period of 12 December 2007 to 30 January 2008 inclusive, to a designated service that is provided under item 35 of table 1 in subsection 6(2) of that Act, in the following circumstances:
 - (a) issuing an interest in a managed investment scheme (including an option to acquire an interest in a managed investment scheme) or a derivative relating to an interest in a managed investment scheme.

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