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**Australian Transaction Reports
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Explanatory note for consultation purposes

Subsection 247(3) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) provides that the AML/CTF Act does not apply to a designated service that is provided in circumstances specified in the Anti-Money Laundering and Counter-Terrorism Financing Rules (AML/CTF Rules).

These AML/CTF Rules exempt providers of administration services relating to salary packaging from the AML/CTF Act where their activities relate solely to the following designated services:

- Item 6 (relates to making a loan)
- Item 7 (relates to allowing the borrower to conduct a transaction in relation to a loan)
- Item 48 (relates to guaranteeing a loan).

Any other designated services provided by a SPA services provider are not affected by these rules and will be regulated under the AML/CTF Act.

AUSTRAC considers that a designated remittance arrangement under the AML/CTF Act is unlikely to occur where salary packaging administration service providers transfer funds *electronically* between their own or the employer client's bank account and the bank account of the service provider to the employee.

AUSTRAC also considers that the Item 54 designated service (relating to making arrangements for a person to receive a designated service in the capacity of the holder of an AFSL) under the AML/CTF Act is only likely to apply in limited circumstances, if at all, in relation to salary packaging administration service providers. This is because of the 'narrow view' AUSTRAC has taken in interpreting Item 54, that is, its application is limited to where the designated service arranged is also a financial service under the *Corporations Act 2001*. For further information on Item 54, see AUSTRAC's Public Legal Interpretation No. 2 – 'Item 54 of table one in section 6 of the AML/CTF Act'.



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Draft Anti-Money Laundering and Counter-Terrorism Financing Rules for the exemption of salary packaging administration services from the AML/CTF Act

1. These Anti-Money Laundering and Counter-Terrorism Financing Rules (AML/CTF Rules) are made under section 229 for subsection 247(3) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
2. The AML/CTF Act does not apply to a designated service that:
 - (1) is of a kind described in items 6, 7 and 48 of table 1 in subsection 6(2) of the AML/CTF Act; and
 - (2) is provided in the course of carrying on a business of providing administrative services relevant to salary packaging for an employer client.
3. In these Rules:

‘salary packaging’ refers to an arrangement between an employer and an employee, whereby the employee agrees to forgo part of their future entitlement to salary or wages in return for the employer providing them with benefits of a similar cost.

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.