



Australian Government

Australian Transaction Reports and Analysis Centre

Explanatory note for consultation purposes

These draft Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) exempt reporting entities that are warrant issuers, subject to specific circumstances, from the applicable customer identification procedure of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, if they provide item 33 (as an agent, acquiring or disposing of a security or derivative), item 35 (issue or sell a derivative) and item 46 (providing a custodial or depository service) designated services.

The specified circumstances are:

- (1) where a customer acquires a warrant on market or off market; or
- (2) the warrants issuer sells the underlying asset or issues a new warrant to the warrant holder as a result of a corporate action; or
- (3) where the warrants issuer sells the underlying asset or issues a new warrant to the warrant holder as a result of the roll-over, re-set or expiry of a warrant.

As a result of these Rules, duplication of the applicable customer identification procedure by relevant reporting entities will be avoided.



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Draft Anti-Money Laundering and Counter-Terrorism Financing Rules relating to warrants

1. These Anti-Money Laundering and Counter-Terrorism Financing Rules (Rules) are made under section 229 for subsection 39(4) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).
2. Division 4 of Part 2 of the AML/CTF Act does not apply to a warrants issuer providing a designated service in relation to a warrant that:
 - (1) is of a kind described in item 33 of table 1 in subsection 6(2) of the AML/CTF Act; or
 - (2) is of a kind described in item 46 of table 1 in subsection 6(2) of the AML/CTF Actin the circumstances specified in subparagraph 5(1).
3. Division 4 of Part 2 of the AML/CTF Act does not apply to a warrants issuer providing a designated service in relation to a warrant that:
 - (1) is of a kind described in item 33 of table 1 in subsection 6(2) of the AML/CTF Act; or
 - (2) is of a kind described in item 35 of table 1 in subsection 6(2) of the AML/CTF Act; or
 - (3) is of a kind described in item 46 of table 1 in subsection 6(2) of the AML/CTF Actin the circumstances specified in subparagraph 5(2).
4. Division 4 of Part 2 of the AML/CTF Act does not apply to a person providing a designated service that relates to a warrant that:
 - (1) is of a kind described in item 33 of table 1 in subsection 6(2) of the AML/CTF Act; or
 - (2) is of a kind described in item 35 of table 1 in subsection 6(2) of the AML/CTF Act.in the circumstances specified in subparagraph 5(3).
5. The specified circumstances for the purposes of paragraph 2, 3 and 4 are that the designated service in subparagraph 2(1) or (2) is provided by a warrants issuer in

relation to a warrant or the designated service in subparagraph 3(3) relates to a warrant; and

- (1) a customer acquires a warrant on market or off market through the completion of a transfer; or
- (2) as a result of a corporate action in relation to the underlying asset, the warrants issuer sells the underlying asset or issues a new warrant to the warrant holder; or
- (3) where as a result of the roll-over, re-set or expiry of a warrant, the warrants issuer sells the underlying asset or issues a new warrant to the warrant holder.

6. In these Rules:

- (1) 'corporate action' includes an assignment, conveyance, sale, or transfer of the whole or part of a business in relation to the underlying asset;
- (2) 'off-market' means where customers purchase warrants on their own behalf, rather than from warrant issuers, outside a prescribed financial market;
- (3) 'prescribed financial market' has the meaning given by section 9 of the *Corporations Act 2001*;
- (4) 'warrant' has the meaning set out in Regulation 1.0.02 of the *Corporations Regulations 2001*, when issued by a bank, government or other institution;
- (5) 'warrant holder' means the customer of the warrant issuer;
- (6) 'warrant issuer' means a person authorised by a prescribed financial market to issue warrants.

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.