



## Australian Government

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### Australian Transaction Reports and Analysis Centre

#### Explanatory note

This declaration instrument replaces the previous draft AML/CTF Rules which were published on AUSTRAC's website at [www.austrac.gov.au/aml\\_ctf\\_rules.html](http://www.austrac.gov.au/aml_ctf_rules.html). The declaration has the same effect as those draft AML/CTF Rules.

The Anti-Money Laundering and Counter-Terrorism Financing Regulations 2008 (AML/CTF Regulations) 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, are required to comply with relevant obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

The AML/CTF Regulations are not retrospective. To require identification of customers who acquired an interest in a managed investment scheme at any time before 31 January 2008 would indirectly give the AML/CTF Regulations retrospective effect. This declaration under section 248 of the AML/CTF Act ensures that this is not the case. The effect of the declaration is to modify the application of section 28 (pre-commencement customers) so that for designated services covered by the AML/CTF Regulations, pre-commencement customers are customers to whom a reporting entity commenced to provide a service prior to 31 January 2008.



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**Declaration**

**Section 248 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006***

1. Under paragraph 248(1)(b) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act), I, Neil J Jensen PSM, AUSTRAC CEO, hereby declare that section 28 of that Act applies in relation to persons specified in paragraph 2 below as if subsection 28(1) were modified as follows:
  - (1) insert immediately after the end of subsection 28(1): ‘provided that in the case of an issue of 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 under item 35 of table 1 in subsection 6(2) the relevant time is the period prior to 31 January 2008.’
2. Any person who issues 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 under item 35 of table 1 in subsection 6(2) of the AML/CTF Act.

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Neil J Jensen PSM, AUSTRAC CEO

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