



Defence of law of foreign country preventing compliance - Section 236A approved form

This form is to be completed by a reporting entity that is:

- prevented by a law of a foreign country from complying with a civil penalty provision in Part 1A or Part 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act)
- is seeking to give written notice to the AUSTRAC CEO under section 236A(1)(c) of the AML/CTF Act.

The reporting entity must provide this notice *before* any conduct alleged to be a contravention of a civil penalty provision in Part 1A or 2 of the AML/CTF Act occurs.

Email completed forms to contact@austrac.gov.au or post to
AUSTRAC – Contact Centre
PO Box K534
Haymarket NSW 1240

Reporting entity and foreign permanent establishment

Full name of the reporting entity:

AUSTRAC account number:

Full name of foreign permanent establishment:

Address of the foreign permanent establishment:

Is the reporting entity part of a reporting group?

Yes

No

If yes, please specify the name of the lead entity of the reporting group

What designated services does the reporting entity provide at or through the foreign permanent establishment?

Date from which the reporting entity is prevented from complying with a civil penalty provision in the AML/CTF Act:

Civil penalty provision/s in Part 1A or 2 of the AML/CTF Act that cannot be complied with:

Is the reporting entity prevented from complying temporarily or on an ongoing basis?

Ongoing Temporary

If temporary, explain the expected duration:

Foreign law preventing compliance with the AML/CTF Act

Foreign country:

Title/name of the foreign law that prevents the reporting entity from complying with the AML/CTF Act:

Section(s) or article(s) of the foreign law:

Government/regulatory authority responsible for administering the foreign law:

Type of law preventing compliance (for example, privacy or data protection or banking secrecy):

Explain how the foreign law prevents the reporting entity from complying with the identified civil penalty provision(s). This includes how the foreign law applies to the reporting entity. Describe the conflict clearly and specifically.

Attach supporting evidence of the foreign law (optional). For example:

- a copy of the relevant foreign law that is from a reliable source with translation (if not in English). For example, an official government publication or by authority of the government or administration, or reports of judgments of courts of the country
- public legal interpretation from foreign regulator or governing body
- written report from expert regarding the relevant foreign law (where possible)
- extract from books of law.

Declaration

I confirm that all of the following is true:

- The reporting entity provides a designated service at or through a permanent establishment in a foreign country.
- A law of that foreign country prevents the reporting entity from complying with the identified civil penalty provision(s).
- This written notice is being provided before the conduct alleged to constitute a contravention occurs.
- I am authorised to complete this application on behalf of the reporting entity.
- The information provided in this application is true, accurate and complete.
- I understand criminal or civil penalties may apply for giving false or misleading information.

Name:

Position/title:

Email:

Date:

Signature:

Privacy notice

The information collected in this form will be used by AUSTRAC for the purposes of receiving written notification from a Reporting Entity of their being affected by a foreign law that prevents their compliance with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act), and for other lawful purposes under the AML/CTF Act and the *Privacy Act 1988*. If you do not provide the personal information sought by this form, you may not be able to rely on the provisions of section 236A of the AML/CFT Act in future interactions with AUSTRAC.

Information on how the personal information you supply through this form will be handled, including how this information may be disclosed to other organisations and how you may seek access to, or amendment of, this information or make a complaint about the way AUSTRAC handles this personal information is available in the AUSTRAC [Privacy Policy](#) and [Privacy Statement](#).