



Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No. 2)

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

I, Thomas Story, Acting Chief Executive Officer, Australian Transaction Reports and Analysis Centre, make this Instrument under section 229 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Dated 24 April 2008

[Signed]

Thomas Story

Acting Chief Executive Officer
Australian Transaction Reports and Analysis Centre

1 Name of Instrument

This Instrument is the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2008 (No. 2)*.

2 Commencement

This Instrument commences on the day after it is registered.

3 Amendment

- (1) Schedule 1 amends the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*.

Schedule 1 Amendment of the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*

1. After Chapter 20

Insert:

Chapter 21 Issuing or selling a security or derivative

Anti-Money Laundering and Counter-Terrorism Financing Rules for issuing or selling a security or derivative

- 21.1 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 paragraph (d) of item 35 of table 1 in subsection 6(2) and subsection 247(3) of that Act.
- 21.2 For paragraph (d) of item 35 of table 1 in subsection 6(2) of the AML/CTF Act, the condition applies that the service is not a disposal of a security or derivative through an agent who is doing so in the course of carrying on a business of disposing of securities or derivatives in the capacity of agent, within the terms of item 33 of table 1 in subsection 6(2) of that Act.
- 21.3. For subsection 247(3) of the AML/CTF Act, the following designated services provided in any of the following circumstances are specified:
 - (1) a person issuing or selling a security or derivative to another person (transaction) under item 35 of table 1 in subsection 6(2) of the AML/CTF Act and the transaction occurs on a prescribed financial market; or

- (2) an issue of an interest in a managed investment scheme (including an option to acquire an interest in a managed investment scheme) where the managed investment scheme is quoted on a prescribed financial market, in the following circumstances:
 - (a) the issue is in accordance with relevant requirements in the *Corporations Act 2001* pursuant to a dividend or distribution plan (also known as a distribution reinvestment plan); and
 - (b) the interest is to be quoted on a prescribed financial market; or
- (3) an issue of an interest in a managed investment scheme (including an option to acquire an interest in a managed investment scheme) where the managed investment scheme is quoted or to be quoted on a prescribed financial market, in the following circumstances:
 - (a) the issue is in accordance with relevant requirements in the *Corporations Act 2001* pursuant to fundraising (including an initial public offering and a rights issue); and
 - (b) the interest is to be quoted on a prescribed financial market.

21.4 In this Chapter:

- (1) ‘dividend or distribution plan’ has the meaning given by Chapter 19 of the ASX Listing Rules issued, as in force on 22 April 2008, by ASX Limited trading as the Australian Securities Exchange;
- (2) ‘initial public offering’ in the context of an interest in a managed investment scheme is an offering of that interest by a reporting entity, for the first time, to an applicant who subscribes for that interest, before the interest is quoted on a prescribed financial market;
- (3) ‘prescribed financial market’ has the meaning given by section 9 of the *Corporations Act 2001*;
- (4) ‘rights issue’ has the meaning given by section 9A of the *Corporations Act 2001*.

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.