



Australian Government

**Australian Transaction Reports
and Analysis Centre**

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 paragraph 38(b) of that Act applies in relation to Persons specified in paragraph 2 below as if paragraph 38(b) were modified as follows:

insert immediately after 'the applicable customer identification procedure':

'or other customer identification procedure applicable in a foreign country that is comparable to the applicable customer identification procedure was carried out in such circumstances as are specified in paragraph 2 of this modification.'

delete the words 'was carried out in such circumstances as are specified in the AML/CTF Rules; and'

2. A person (Person) must satisfy the following conditions:
 - (1) provide a designated service at or through a permanent establishment of the Person in a foreign country and the Person is:
 - (a) a resident of Australia; or
 - (b) a subsidiary of a company that is a resident of Australia; and
 - (2) in respect to that designated service carry out a customer identification procedure applicable in a foreign country that is comparable to the applicable customer identification procedure as are specified in the AML/CTF Rules.

 16 March 2009
Neil J Jensen PSM, AUSTRAC CEO

Explanatory Note for section 248 declaration

Section 38 of the AML/CTF Act allows a reporting entity to rely on the applicable customer identification procedure (ACIP) carried out by another reporting entity in certain circumstances. Currently a valid ACIP under the AML/CTF Act, is one which is solely carried out in Australia. For example, an overseas New Zealand subsidiary company member of a Australian designated business group (DBG), may rely on the ACIP carried out by an Australian subsidiary company member for a customer who moves from Australia to New Zealand, but the Australian company cannot rely on an ACIP carried out by the New Zealand subsidiary in New Zealand, if the customer moves from New Zealand to Australia, as section 38 does not allow for a comparable ACIP to be relied upon.

The declaration enables an Australian member of a DBG to rely on section 38, when its overseas subsidiary has carried out an ACIP, but only after it has ascertained under its risk-based procedure, that the relevant ACIP has been carried out under an AML/CTF regime, which is comparable to the Australian AML/CTF Act.