

## Declaration 2 of 2017

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

I, Kathryn Haigh, National Manager – Legal Strategy & Solutions, of the Australian Transaction Reports and Analysis Centre (AUSTRAC) and a delegate of the AUSTRAC CEO, pursuant to paragraph 248(1)(b) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (**the Act**), hereby declare that, until 30 June 2020, items 6, 7, 48 and 49 in Table 1 in subsection 6(2) of the Act apply in relation to the persons specified in paragraph 2 below, as if those items were modified as specified in paragraph 1 below:

1.

Table 1 — Financial services		
Item	Provision of a designated service	Customer of the designated service
6	<p>making a loan, where the loan is made in the course of carrying on a loans business by the Northern Australia Infrastructure Facility (<i>NAIF</i>) in the following circumstances:</p> <p>(a) the NAIF provides a loan to one of the following (the <i>relevant State or Northern Territory entity</i>):</p> <ul style="list-style-type: none"><li>(i) the State of Western Australia;</li><li>(ii) the State of Queensland;</li><li>(iii) the Northern Territory;</li><li>(iv) an entity wholly-owned by the State of Western Australia, the State of Queensland, or the Northern Territory;</li><li>(v) a treasury corporation or a ministerial body corporate established by the State of Western Australia, the State of Queensland, or the Northern Territory;</li></ul> <p>under a Master Facility Agreement (<i>MFA</i>) which has the Commonwealth of Australia, the NAIF and the relevant State or Northern Territory entity as parties; and</p> <p>(b) the loan in paragraph (a) is on-lent, at the request of the NAIF, by the relevant</p>	the Project Proponent

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**Table 1 — Financial services**

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<b>Item</b>	<b>Provision of a designated service</b>	<b>Customer of the designated service</b>
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State or Northern Territory entity, to an eligible borrower (known as a *Project Proponent*) under a separate finance contract, made in accordance with the terms of the MFA, that has the following characteristics:

- (i) the parties to the finance contract are, or include, the relevant State or Northern Territory entity as lender, and the Project Proponent as borrower; and
  - (ii) the relevant State or Northern Territory entity makes a loan to the Project Proponent; and
- (c) the loan described in paragraph (a):
- (i) is made under, and in accordance with, the *Northern Australian Infrastructure Facility Act 2016* (Cth), the *Northern Australia Infrastructure Facility Investment Mandate Direction 2016* (as amended) or any future directions in force from time to time issued under subsection 9(1) of that Act; and
  - (ii) may, at the direction of the relevant State or Northern Territory entity, be:
    - (A) paid directly by the NAIF to; or
    - (B) repaid directly to the NAIF by;the Project Proponent.

To avoid doubt, any on-lending activity by the relevant State or Northern Territory entity in accordance with paragraph (b) does not constitute the provision of a designated service by the relevant State or Northern Territory entity to the Project Proponent.

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**Table 1 — Financial services**

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<b>Item</b>	<b>Provision of a designated service</b>	<b>Customer of the designated service</b>
7	<p>the NAIF, in the capacity of lender for a loan, allowing the Project Proponent to conduct a transaction in relation to the loan, where the loan was made in:</p> <p>(a) the course of carrying on a loans business; and</p> <p>(b) in the circumstances specified in modified item 6 of table 1 in section 6 of the Act.</p> <p>To avoid doubt, any activity by the relevant State or Northern Territory entity which allows or facilitates the Project Proponent to conduct a transaction in relation to the loan does not constitute the provision of a designated service by the relevant State or Northern Territory entity to the Project Proponent.</p>	the Project Proponent
48	<p>guaranteeing a loan, where the guarantee is given:</p> <p>(a) by the NAIF to a relevant State or Northern Territory entity; and</p> <p>(b) subsequently, and at the request of NAIF, by the relevant State or Northern Territory entity to a third party lender;</p> <p>in the course of carrying on a business of guaranteeing loans in the following circumstances:</p> <p>(c) the loan which is being guaranteed is made by the third party lender to a borrower (the Project Proponent); and</p> <p>(d) the guarantee in paragraph (a) is given under, and in accordance with, the <i>Northern Australian Infrastructure Facility Act 2016</i> (Cth), the <i>Northern Australia Infrastructure Facility Investment Mandate Direction 2016</i> (as amended) and any future directions in force from time to time issued pursuant to subsection 9(1) of that Act; and</p> <p>(e) the guarantee described in paragraph (b) is a State Guarantee as defined in, and given in accordance with:</p> <p>(i) a MFA which has the Commonwealth</p>	<p>both:</p> <p>(a) the third party lender; and</p> <p>(b) the Project Proponent</p>

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**Table 1 — Financial services**

Item	Provision of a designated service	Customer of the designated service
	<p>of Australia, the NAIF and the relevant State or Northern Territory entity as parties; and</p> <p>(ii) a separate guarantee agreement made in accordance with the terms of the MFA, which has, or includes, the relevant State or Northern Territory entity as guarantor and the Project Proponent's third party lender as the beneficiary of the guarantee.</p> <p>To avoid doubt, the provision of the guarantee by the relevant State or Northern Territory entity in accordance with paragraphs (b) and (e) does not constitute the provision of a designated service by the relevant State or Northern Territory entity to either the third party lender or the Project Proponent.</p>	
49	<p>the NAIF, in the capacity of guarantor of a loan made by a third party lender to a Project Proponent, making a payment to the third party lender either:</p> <p>(a) through a relevant State or Northern Territory entity; or</p> <p>(b) directly, at the direction of the relevant State or Northern Territory entity;</p> <p>where the guarantee was given:</p> <p>(c) in the course of carrying on a business of guaranteeing loans; and</p> <p>(d) in the circumstances specified in modified item 48 of table 1 in section 6 of the Act.</p> <p>To avoid doubt, the making of a payment by the relevant State or Northern Territory entity to the third party lender in accordance with paragraph (b) does not constitute the provision of a designated service by the relevant State or Northern Territory entity to either the third party lender or the Project Proponent.</p>	<p>both:</p> <p>(a) the third party lender; and</p> <p>(b) the Project Proponent</p>

2. This declaration applies to:

- (a) the NAIF established under the *Northern Australia Infrastructure Facility Act 2016* (Cth).
- (b) the following State or Northern Territory entities, but only in relation to loan or guarantee activities described in this declaration:
  - (i) the State of Western Australia;
  - (ii) the State of Queensland;
  - (iii) the Northern Territory;
  - (iv) an entity wholly-owned by the State of Western Australia, the State of Queensland or the Northern Territory;
  - (v) a treasury corporation or a ministerial body corporate established by the State of Western Australia, the State of Queensland, or the Northern Territory.

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Kathryn Haigh  
**National Manager – Legal Strategy & Solutions**  
**AUSTRAC**

.....18/12/2017.....

**Important Notice to the person named in this declaration**

1. Under sections 136 and 137 of the AML/CTF Act, it is an offence to provide false or misleading information or documents. If any of the information submitted by the applicant or its representatives is found to be false or misleading, the modification may be revoked and action initiated against the applicant.
2. The person granted the modification may request the AUSTRAC CEO to revoke or vary the modification at any time.
3. Any request to vary this modification must be submitted to the AUSTRAC CEO or an approved delegate no later than 14 days before the date the change is requested to commence.