



Anti-Money Laundering and Counter-Terrorism Financing Act (Modification) Declaration 2019 (No. 1)

I, Kathryn Haigh, National Manager, Legal and Policy Branch, of the Australian Transaction Reports and Analysis Centre (AUSTRAC), make the following declaration as an authorised delegate of the AUSTRAC CEO.

Dated 31 May 2019

A handwritten signature in black ink, appearing to read 'K. Haigh', is written over a horizontal line.

Kathryn Haigh
National Manager, Legal and Policy Branch
AUSTRAC

1 Commencement

This declaration commences on the day after it is signed.

2 Authority

This declaration is made under paragraph 248(1)(b) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act)*.

3 Definitions

Note: A number of expressions used in this instrument are defined in definitions section of the AML/CTF Act, including the following:

- (a) designated service

In this instrument:

EQT means Equity Trustees Limited ABN 46 004 031 298.

4 Application

This declaration applies to EQT in respect of the provision of designated services described in item 35 of table 1 in subsection 6(2) of the AML/CTF Act.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Modifications

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

1 Section 33

Repeal the section, substitute:

33 Special circumstances that justify carrying out the applicable customer identification procedure after the commencement of the provision of a designated service

- (1) For the purposes of this Act, if Equity Trustees Limited ABN 46 004 031 298 (EQT) commences to provide a designated service to a customer, there are taken to be special circumstances that justify the carrying out of the applicable customer identification procedure in respect of the customer after the commencement of the provision of the service if the customer:
- (a) was domiciled in either:
 - (i) Australia; or
 - (ii) New Zealand; and
 - (b) is a shareholder of either:
 - (i) Watermark Global Leaders Funds Limited ABN 71 614 536 560 (WGF); or
 - (ii) Watermark Market Neutral Fund Limited ABN 45 163 980 498 (WMK); and
 - (c) is issued a unit in the Watermark Absolute Return Fund ARSN 631 094 534 by EQT through the implementation of either:
 - (i) a scheme of arrangement under Part 5.1 of the Corporations Act 2001 approved by the shareholders of WGF and the Federal Court of Australia, restructuring the assets of WGF; or
 - (ii) a scheme of arrangement under Part 5.1 of the Corporations Act 2001 approved by the shareholders of WMK and the Federal Court of Australia, restructuring the assets of WMK.

2 Section 34

Repeal the section, substitute:

34 Carrying out the applicable customer identification procedure after the commencement of the provision of a designated service etc.

- (1) If:
- (a) EQT has commenced to provide a designated service to a customer; and
 - (b) when EQT commenced to provide the designated service to the customer, there were special circumstances that justified the carrying out of the applicable customer identification

procedure in respect of the customer after the commencement of the provision of the service (see section 33); and

- (c) EQT has not previously carried out the applicable customer identification procedure in respect of the customer; and
- (d) EQT has not carried out the applicable customer identification procedure in respect of the customer on or before 31 July 2019; and
- (e) neither section 28 nor section 30 applies to the provision of the service;

then, after 31 July 2019 EQT must not continue to provide, and must not commence to provide, any designated services to the customer until EQT carries out the applicable customer identification procedure in respect of the customer.

Note 1: See also the definition of *commence to provide a designated service* in section 5.

Note 2: See also section 38 (when applicable customer identification procedure deemed to be carried out by a reporting entity).

- (2) Subsection (1) does not apply if:
 - (a) under the AML/CTF Rules, the reporting entity is not required to carry out the applicable customer identification procedure in respect of the customer; and
 - (b) the reporting entity takes such action as is specified in the AML/CTF Rules.

Civil penalty

- (3) Subsection (1) is a civil penalty provision.

Important Notice to the person named in this instrument

- (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 declaration may be revoked and action initiated against the applicant.
- (2) The person granted the declaration may request the AUSTRAC CEO to revoke or vary the declaration at any time.
- (3) However, any request to vary this declaration must be submitted to the AUSTRAC CEO no later than 28 days before the date the change is requested to commence.