



Australian Government

**Australian Transaction Reports
and Analysis Centre**

Designated business group scenarios: customer identification deemed to have been carried out

The following terms are used for the purpose of these scenarios only; that is, they are not the terms used in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act):

Customer identification procedure

Requirements relating to the applicable customer identification procedure are referred to in Part 2 of the AML/CTF Act and set out in Chapter 4 of the AML/CTF Rules. These requirements come into effect on 12 December 2007.

Post-commencement customers

Customers of a reporting entity who will be, or have been provided with, a designated service on or after 12 December 2007 are known as ‘post-commencement’ customers for the purposes of Division 4, Part 2 of the AML/CTF Act.

Pre-commencement customers

Customers of a reporting entity who have been provided with a designated service by the reporting entity before 12 December 2007 are referred to as ‘pre-commencement’ customers for the purposes of Division 2, Part 2 of the AML/CTF Act.

A. Customer identification procedure requirement and pre-commencement customers

Scenario 1 – takeover

X (company) takes over Y (company). Y becomes a subsidiary of X.

The takeover occurs after 12 December 2007. Y has pre-commencement customers.

Both X and Y are members of the same designated business group.

X and other members of the designated business group propose to provide designated services to Y’s pre-commencement customers.

Question 1: Can X treat Y's pre-commencement customers as if they were X's pre-commencement customers; and do the customer identification procedure requirements apply in these circumstances?

Answer: X may not treat Y's pre-commencement customers as if they were X's pre-commencement customers. Therefore, X must carry out the customer identification procedure for such customers prior to providing a designated service to those customers. However, see answer (b) below.

Question 2: Can any other member of the designated business group treat Y's pre-commencement customers as if they were that member's pre-commencement customers; and do the customer identification procedure requirements apply in these circumstances?

Answer: (a) The member cannot treat Y's pre-commencement customers as if they were that member's pre-commencement customers. Therefore, the member must carry out the customer identification procedure for such customers prior to providing a designated service to those customers.

(b) However, if a member of the designated business group has carried out the customer identification procedure in relation to such customers under the AML/CTF Act post-12 December 2007, then any other member(s) of the designated business group may rely on section 38 of the AML/CTF Act. This is subject to the conditions in Part 7.3 of Chapter 7 of the AML/CTF Rules. Section 38 of the AML/CTF Act has the effect of applying that Act as if the customer identification procedure had also been carried out by the other member(s) of the designated business group (with the exception of certain record-keeping obligations).

Scenario 2 – merger

X (company) merges with Y (company). Only X exists after the merger.

The merger occurs after 12 December 2007. Y has pre-commencement customers.

X belongs to a designated business group.

X and other members of the designated business group propose to provide designated services to Y's pre-commencement customers.

Question 1: Can X treat Y's pre-commencement customers as if they were X's pre-commencement customers; and do the customer identification procedure requirements apply in these circumstances?

Answer: X may not treat Y's pre-commencement customers as if they were X's pre-commencement customers. Therefore, X must carry out the customer identification procedure for such customers prior to providing a designated service to those customers. However, see answer (b) below.

Question 2: Can any other member of the designated business group treat Y's pre-commencement customers as if they were that member's pre-commencement customers; and do the customer identification procedure requirements apply in these circumstances?

- Answer :
- (a) The member cannot treat Y's pre-commencement customers as if they were that member's pre-commencement customers. Therefore, the member must carry out the customer identification procedure for such customers prior to providing a designated service to those customers.
 - (b) However, if a member of the designated business group has carried out the customer identification procedure in relation to such customers under the AML/CTF Act post-12 December 2007, then any other member(s) of the designated business group may rely on section 38 of the AML/CTF Act. This is subject to the conditions in Part 7.3 of Chapter 7 of the AML/CTF Rules. Section 38 of the AML/CTF Act has the effect of applying that Act as if the customer identification procedure had also been carried out by the other member(s) of the designated business group (with the exception of certain record-keeping obligations).

B. Customer identification procedure requirement and post-commencement customers

Scenario 1 – takeover

X (company) takes over Y (company). Y becomes a subsidiary of X.

The takeover occurs after 12 December 2007.

Y has carried out a customer identification procedure for its post-commencement customers (that is, under the AML/CTF Act post-12 December 2007).

Both X and Y are members of the same designated business group.

X and other members of the designated business group propose to provide designated services to Y's post-commencement customers.

Question 1: Is X required to carry out the customer identification procedure in relation to these customers who have been identified and verified by Y?

Answer: As Y has carried out the customer identification procedure in relation to these customers under the AML/CTF Act post-12 December 2007, X may rely on section 38 of the AML/CTF Act, subject to satisfying the conditions in Part 7.3 of Chapter 7 of the AML/CTF Rules. Section 38 of the AML/CTF Act has the effect of applying that Act as if the customer identification procedure had also been carried out by X (with the exception of certain record-keeping obligations).

Question 2: Is any other member of the designated business group required to carry out the customer identification procedure in relation to these customers who have been identified and verified by Y?

Answer: As Y has carried out the customer identification procedure in relation to these customers under the AML/CTF Act post-12 December 2007, the other member(s) may rely on section 38 of the AML/CTF Act in the manner described in the answer to question 1 above, for the purposes of the customer identification procedure.

Scenario 2 – merger

X (company) merges with Y (company). Only X exists after the merger.

Y has carried out the customer identification procedure for its post-commencement customers.

X belongs to a designated business group.

X and other members of the designated business group propose to provide designated services to Y's post-commencement customers.

Question 1: Is X required to carry out the customer identification procedure in relation to these customers who have been identified and verified by Y?

Answer: X is required to carry out the customer identification procedure for these customers prior to providing designated services to such customers. However, see answer (b) below.

Question 2: Is any other member of the designated business group required to carry out the customer identification procedure in relation to these customers who have been identified and verified by Y?

Answer: (a) Other members of the designated business group are required to carry out the customer identification procedure under the AML/CTF Act post-12 December 2007 for these customers, prior to providing designated services to such customers.

(b) However, once a member has carried out the customer identification procedure, any other member(s) of the designated business group may rely on section 38 of the AML/CTF Act, subject to the conditions in Part 7.3 of Chapter 7 of the AML/CTF Rules. Section 38 of the AML/CTF Act has the effect of applying that Act as if the customer identification procedure had also been carried out by the other member(s) of the designated business group (with the exception of certain record-keeping obligations).