



Exemption 5 of 2017

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

I, Alistair Sands, acting National Manager, Strategic Intelligence and Policy, of the Australian Transaction Reports and Analysis Centre, pursuant to paragraph 248(1)(a) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act)*, exempt Cargill Australia Financial Services Pty Ltd ACN 103 594 823 (CAFS) from the following specified provisions of the AML/CTF Act:

- (a) item 33 of Table 1 in subsection 6(2)
- (b) item 54 of Table 1 in subsection 6(2)

Under paragraph 248(2)(b) of the AML/CTF Act the exemption is subject to the following conditions:

- (1) CAFS is operating in the capacity of an agent of Cargill Australia Limited ACN 004 684 173 (CAL) and providing services in relation to a derivative;
- (2) the derivative is a commodity swap product where the terms and conditions are contained in a commodity swap contract;
- (3) the derivative cannot be traded to a third party;
- (4) the derivative will terminate on or before the maturity date specified in the commodity swap contract;

For purchases of grain

- (5) the derivative is issued by CAL to a grower in Australia who:
 - (a) is registered on the National Grower Register;
 - (b) has produced the grain that is the underlying commodity of the derivative; and
 - (c) has contracted to sell and deliver the underlying commodity to CAL;
- (6) the minimum amount of the underlying commodity to be sold under the contract to CAL is 100 tonnes;

For sales of grain or grain products

- (7) the derivative is issued by CAL to a customer who:
 - (a) has contracted to purchase the underlying commodity of the derivative from CAL;
 - (b) will receive the underlying commodity from CAL;

Notice to AUSTRAC

- (8) if an event occurs that may affect CAFS's compliance with this exemption, including the conditions, CAFS must notify the AUSTRAC CEO or delegate:
- (a) within 14 days of the event occurring; or
 - (b) within such other period as is authorised in writing by the AUSTRAC CEO or delegate;

Otherwise, this exemption ceases to apply until CAFS notifies the AUSTRAC CEO or delegate.

Definitions

In this Instrument:

- (1) 'commodity swap' means
 - (a) an agreement that a payout to a party is based upon the reference price of a commodity being traded for a fixed price over a specified period; or
 - (b) an over the counter option where by the buyer has the right but not the obligation to a price based upon the reference price of a commodity, subject to conditions specified in the commodity swap contract;
- (2) 'derivative' has the same meaning as in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*;
- (3) 'grain' means grains, oil seeds and pulses of all kinds, qualities and varieties including wheat, barley, oats, sorghum, maize and rice;
- (4) 'grain products' means a substance produced by the crushing, grinding, gristing, milling or other similar processing of grain.

Important Notice to person named in this instrument

- 1. Any request for a change to this instrument must be submitted to the AUSTRAC CEO or approved delegate no later than 14 days before the date the change is requested to commence.
- 2. Pursuant to subsection 248(3), the person granted the exemption must comply with the conditions set out in the instrument. Subsection 248(3) is a civil penalty provision and failure to comply with those conditions may result in:
 - the exemption ceasing to apply to the person during any period in which the person does not comply with the relevant condition or conditions;
 - the revocation of the exemption; and
 - the AUSTRAC CEO making an application to the Federal Court of Australia for a civil penalty order requiring the person to pay a pecuniary penalty in respect of such a breach.

3. It is an offence under sections 136 and 137 of the AML/CTF Act to provide false or misleading information or false or misleading documents. If any of the information submitted by the applicant or its representatives is found to be false or misleading, the exemption may be revoked, and action may be initiated against the applicant.
4. The person granted the exemption may request the AUSTRAC CEO at any time to revoke or vary the exemption.



Alistair Sands

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Australian Transactions and Reports Analysis Centre

Date: 10/07/2017