



Exemption 10 of 2017

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

I, Bradley Brown, Acting Deputy CEO International and Policy, acting under paragraph 248(1)(a) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act), and subject to the conditions specified in this instrument,

- (1) exempt the CBA from subsections 123(1), 123(2), 123(3) and 123(11) of the AML/CTF Act; and
- (2) exempt the Legal Practitioners from subsections 123(5A) and 123(11) of the AML/CTF Act;

during any period within the Relevant Period in which the CBA and the Legal Practitioners (as applicable) satisfy all of the conditions specified in this instrument.

Conditions

1. This instrument applies to communications or disclosure of Suspicious Matter Material by the CBA or the Legal Practitioners, which are:
 - a. made in connection with the Court Proceedings; and
 - b. made to any of the following:
 - i. the Court;
 - ii. a Legal Practitioner;
 - iii. an individual employed by a Related Body Corporate of the CBA;
 - iv. an individual who is or may be asked to provide lay evidence in the Court Proceedings and is not otherwise entitled to access Suspicious Matter Material;
 - v. an individual who is or may be briefed to act as an expert in connection with the Court Proceedings;
 - vi. any other individual with whom the CBA or the Legal Practitioners wish to consult in the pursuit of the CBA's case in the Court Proceedings;
 - vii. a legal representative of any individual listed above.

2. In respect of a proposed communication or disclosure of Suspicious Matter Material to an individual listed at paragraphs 1(b)(iii) to (vii), the CBA or Legal Practitioners:
 - a. must give the name of that individual to the AUSTRAC Access and Exemptions team using the confidential table in the form set out at Schedule 1 and send this document by email to:
exemptions@austrac.gov.au;
 - b. may, from time to time, update the confidential table set out at Schedule 1 with the names of additional individuals and send the updated document by email to the email address at 2(a) above;
 - c. must, prior to disclosing any Suspicious Matter Material, require the individual to sign an undertaking in the form set out at Schedule 2;
 - d. must maintain a record of the Suspicious Matter Material disclosed to the individual; and
 - e. must take all reasonable steps to obtain from the individual any hard copy Suspicious Matter Material after the conclusion of the Court Proceedings and to request the deletion of all electronic copies of Suspicious Matter Material.
3. For the avoidance of doubt, this exemption does not preclude communications or disclosures that are otherwise permitted by law.

Interpretation

In this instrument:

CBA means the Commonwealth Bank of Australia ACN 123 123 124.

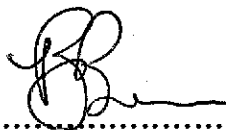
Court Proceedings means the proceedings in the Federal Court of Australia in File Number NSD 1305/2017 between the AUSTRAC CEO and CBA and includes any Related Proceedings.

Relevant Period means the period commencing from the date on which this instrument is made and ending at 5pm on the next business day immediately after the conclusion of the Court Proceedings.

Legal Practitioner means a lawyer engaged by or on behalf of CBA in connection with the Court Proceedings and includes an employee of the lawyer.

Related Proceedings means any court proceedings that arise from the same subject matter as the Court Proceedings, or arise as a result of the Court Proceedings, including, for example, any appeals.

Suspicious Matter Material refers to any information the disclosure of which would, but for the existence of this Exemption, engage section 123 of the AML / CTF Act. For the avoidance of doubt, for the purposes of this Exemption, a reference to Suspicious Matter Material includes information that discloses the identity of one or more of the persons identified in pleadings filed in the Court Proceedings by a number or account (as set out in the confidential annexures to the Statement of Claim filed in the Court Proceedings).



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Bradley Brown
Acting Deputy CEO International and Policy
AUSTRAC

31 August 2017
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Important Notice to the person named in this instrument

1. Under subsection 248(3) of the AML/CTF Act, a person granted an exemption subject to one or more conditions must comply with the conditions specified in the instrument. Failure to comply with subsection 248(3) is a civil penalty provision and may result in any or all of the following:
 - the exemption ceasing to apply to the person during any period in which the person does not comply with the relevant conditions;
 - the exemption being revoked;
 - the AUSTRAC CEO applying to the Federal Court of Australia for a civil penalty order requiring the person to pay a pecuniary penalty in respect of the breach.
2. 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 exemption may be revoked and action initiated against the applicant.
3. The person granted the exemption may request the AUSTRAC CEO to revoke or vary the exemption at any time.
4. Any request to vary this exemption must be submitted to the AUSTRAC CEO or approved delegate no later than 14 days before the date the change is requested to commence.

Schedule 1: Confidential Table of Identified Individuals

Name	Position	Address	Date that name was provided to AUSTRAC's Access and Exemption Team

Schedule 2 – Confidentiality Undertaking

I

undertake to AUSTRAC

to:

1. keep the Sensitive Information confidential at all times;
2. not make public or disclose the Sensitive Information either directly or indirectly to any person, save as permitted by this undertaking;
3. securely store any record of any Sensitive Information;
4. put in place reasonable safeguards to protect any personal information contained in the Sensitive Information in a manner consistent with the requirements of Australian Privacy Principle 8;
5. only disclose any Sensitive Information to the following persons, in the following circumstances:
 - a. in discussions with a lawyer engaged by or on behalf of the CBA;
 - b. in discussions with other persons who have signed an undertaking in this form;
 - c. to the Federal Court of Australia; and
6. return any hard copies of documents containing Sensitive Information to Herbert Smith Freehills within one month of the conclusion of the Court Proceedings; and
7. delete all electronic copies of documents containing Sensitive Information within one month of the conclusion of the Court Proceedings.

For the avoidance of doubt, this undertaking does not preclude me from making communications or disclosures that are otherwise permitted by law.

In this undertaking:

Australian Privacy Principle has the meaning given by section 6 of the *Privacy Act 1988*.

CBA means the Commonwealth Bank of Australia ACN 123 123 124.

Court Proceedings means the proceedings in the Federal Court of Australia in File Number NSD 1305/2017 between the AUSTRAC CEO and CBA and includes any Related Proceedings.

Related Proceedings means any court proceedings that arise from the same subject matter as the Court Proceedings, or arise as a result of the Court Proceedings, including, for example, any appeals.

Sensitive Information refers to any of the following information:

- (a) information as to the identity of any person(s) identified in pleadings filed in Proceeding NSD 1305 of 2017 by reference to a number or account (e.g. Person 1, 2 or CommBank Account 1); and

(b) other information about a particular suspicious matter reporting obligation owed by the CBA, as described in section 41 of the AML/CTF Act, whether or not a suspicion was communicated by CBA to the AUSTRAC CEO.