



**Australian Government**

Australian Transaction Reports  
and Analysis Centre

## **Exemption 7 of 2016**

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

I, Bradley Brown, Acting National Manager, Strategic Intelligence 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 Tab Entities 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 Tab Entities and the Legal Practitioners (as applicable) satisfy all of the conditions specified in this instrument.

#### **Conditions**

- I. This instrument applies to communications or disclosure of Suspicious Matter Material by the Tab Entities or the Legal Practitioners, which are:
  - a. made for the dominant purpose of the Tab Entities being provided with professional services in relation to 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 one of the Tab Entities;
    - iv. an individual who is or may be asked to provide lay evidence in the Court Proceedings;
    - v. an individual who is or may be briefed to act as an expert in the Court Proceedings;
    - vi. an independent auditor or consultant;
    - vii. any other individual with whom the Tab Entities or the Legal Practitioners wish to consult in the pursuit of the Tab Entities' case in the Court Proceedings;
    - viii. 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 (viii), the Tab Entities 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](mailto: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.

### **Interpretation**

In this instrument:

**Court Proceedings** means the proceedings in the Federal Court of Australia in File Number NSD 852/2015 between the AUSTRAC CEO and the Tab Entities (the Proceedings) and 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 the Tab Entities for the purposes of 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 Proceedings, or arise as a result of the 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 Confidential Annexure A of the Statement of Claim filed in the Court Proceedings).

**Tab Entities** means any of the following companies:

- (a) TAB Limited ACN 081 765 308 of 5 Bowen Crescent, Melbourne in the State of Victoria;
- (b) Tabcorp Holdings Ltd ACN 063 780 709 of 5 Bowen Crescent, Melbourne in the State of Victoria; and
- (c) Tabcorp Wagering (Vic) Pty Ltd ACN 134 587 107 of 5 Bowen Crescent, Melbourne in the State of Victoria



14 April 2016

Bradley Brown

**Acting National Manager, Strategic Intelligence and Policy**

**Australian Transaction Reports and Analysis Centre**

### **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**

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

## 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 Tab Entities;
  - b. in discussions with other persons who have signed an undertaking in this form;
  - c. to the Federal Court of Australia;
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.

In this undertaking:

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

**Court Proceedings** means the proceedings in the Federal Court of Australia in File Number NSD 852/2015 between the AUSTRAC CEO and Tab Limited, Tabcorp Holdings Ltd and Tabcorp Wagering (Vic) Pty Ltd.

**Sensitive Information** refers to any of the following information:

- (a) information as to the identity of any person(s) identified in pleadings filed in the Court Proceeding by reference to a number or account (e.g. Person 1, 2 or Account AA, AB); and
- (b) other information about a particular suspicious matter reporting obligation owed by any of the Tab Entities, as described in section 41 of the AML/CTF Act, whether or not a suspicion was communicated by the Tab Entities to the AUSTRAC CEO.

**Tab Entities** means any of the following companies:

- (a) TAB Limited ACN 081 765 308 of 5 Bowen Crescent, Melbourne in the State of Victoria;
- (b) Tabcorp Holdings Ltd ACN 063 780 709 of 5 Bowen Crescent, Melbourne in the State of Victoria; and
- (c) Tabcorp Wagering (Vic) Pty Ltd ACN 134 587 107 of 5 Bowen Crescent, Melbourne in the State of Victoria.

