



Anti-Money Laundering and Counter-Terrorism Financing Act (Exemption) Instrument 2020 (No. 3)

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

Dated *26 June 2020*

A handwritten signature in cursive script that reads 'K Haigh'.

Kathryn Haigh
National Manager, Legal and Policy
AUSTRAC

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1 Commencement

This instrument commences on 29 June 2020.

2 Authority

This instrument is made under paragraph 248(1)(a) and subsection 248(2) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

3 Definitions

HSBC Australia means any of the following companies:

- (1) HSBC Bank Australia Limited ABN 48 006 434 162;
- (2) HSBC Custody Nominees (Australia) Limited ABN 43 003 094 568;
- (3) The Hong Kong and Shanghai Banking Corporation Limited ABN 65 117 925 970.

4 Application

This instrument applies to HSBC Australia.

5 Scope of exemption

HSBC Australia is exempted from the following specified provisions of the AML/CTF Act:

- (1) subsection 123(1); and
- (2) subsection 123(2).

6 Conditions

This exemption is subject to the conditions set out below.

- (1) This exemption only applies to communications relating to a suspicious matter reporting obligation of HSBC Australia made by HSBC Australia to staff of:
 - (a) HSBC Electronic Data Processing India Private Limited, Corporate Identification Number (GIN) U72200TG2000PTC033858 (HSBC House, Plot No.8, Survey No.64 (Part), Hitec City Layout, Madhapur, Hyderabad, 500081, India), who;
 - i. are permanent employees;
 - ii. are employed to handle alerts or improve the efficiency of alert handling systems relating to suspicious matter reporting obligations of HSBC Australia in Australia; and
 - iii. have been approved to receive the communications by HSBC Australia's designated AML/CTF Compliance Officer.

- (2) HSBC Australia must notify the AUSTRAC CEO, in writing, within 14 days of any event that may affect its compliance with the conditions of this exemption.

7 Cessation

This instrument ceases to have effect on 28 June 2022.

8 Important Notice to the person named in clause 4 of 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:
 - (a) the exemption ceasing to apply to the person during any period in which the person does not comply with the relevant condition/s;
 - (b) the exemption being revoked;
 - (c) 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 to the AUSTRAC CEO. If any of the information submitted by the person or its representatives is found to be false or misleading, the exemption may be revoked and action initiated against the person.
- (3) The person granted the exemption may request the AUSTRAC CEO to revoke or vary the exemption at any time.
- (4) For avoidance of doubt, clause 8(3) should not be taken to mean that any of the persons named in clause 3 of this instrument may act alone to request the AUSTRAC CEO to revoke or vary the exemption.
- (5) However, any request to vary this exemption must be submitted to the AUSTRAC CEO no later than 3 months before the date the change is requested to commence.