



## **Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Crown Entities) Instrument 2021 (No. 15)**

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I, Kathryn Miller, make the following instrument as a delegate of the AUSTRAC CEO.

Dated 4 June 2021



Kathryn Miller  
National Manager, Legal and Enforcement  
Australian Transaction Reports and Analysis Centre

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## 1 Name

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Crown Entities) Instrument 2021 (No. 15)*.

## 2 Commencement

This instrument commences on the day after it is signed.

## 3 Cessation

This instrument ceases on 16 June 2021.

## 4 Authority

This instrument is:

- (a) made under paragraph 248(1)(a) of the Act; and
- (b) subject to conditions as authorised under paragraph 248(2)(b) of the Act.

## 5 Definitions

Note: A number of expressions used in this instrument are defined in section 5 of the Act, including the following:

- (a) corporate group;
- (b) person.

In this instrument:

**Act** means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

**Burswood** means Burswood Nominees Limited (ACN 078 250 307) as trustee for the Burswood Property Trust.

**Crown entity** means any of the following companies in the Crown corporate group:

- (a) Burswood;
- (b) Crown Melbourne;
- (c) Crown Sydney.

**Crown Melbourne** means Crown Melbourne Limited (ACN 006 973 262).

**Crown Sydney** means Crown Sydney Gaming Pty Ltd (ACN 166 326 843)

**legal practitioner** means a person who is:

- (a) a legal practitioner (howsoever described) engaged by, or on behalf of, a Crown entity; or
- (b) employed by, or contracted to, a person described in paragraph (a)

in connection with a Royal Commission.

**Royal Commission** means any of the following:

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- (a) the Royal Commission into Crown Melbourne's suitability to hold its Victorian casino licence, as well as the suitability of its associates, including Crown Resorts, established by letters patent issued in Victorian Government Gazette No. S 83, Monday 22 February 2021; or
  - (b) the Royal Commission established by letters patent issued in the Western Australian Government Gazette No. 45, Friday 12 March 2021.

**suspicious matter material** means any information, the disclosure of which would engage subsections 123(1)–(3) of the Act.

**suspicious matter report** means a report given to the AUSTRAC CEO under subsection 41(2) of the Act.

**third party expert** means:

- (a) an anti-money laundering expert retained by a Royal Commission and embedded within Crown Melbourne to provide expert advice in connection with that Royal Commission; or
- (b) a person employed by a person described in paragraph (a).

## 6 Application

- (1) This instrument applies only to the disclosure of suspicious matter material by the following persons:
  - (a) Burswood;
  - (b) Crown Melbourne;
  - (c) Crown Sydney;
  - (d) a legal practitioner.
- (2) Nothing in this Instrument shall be construed as defeating or limiting the extent of any exemption granted under the *Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Crown Entities) Instrument 2021 (No. 11)* in relation to the Crown entities or legal practitioners.

## 7 Exempt provisions

- (1) Burswood is exempt from subsections 123(1) - (3) of the Act.
- (2) Crown Melbourne is exempt from subsections 123(1) - (3) of the Act.
- (3) Crown Sydney is exempt from subsections 123(1) - (3) of the Act.
- (4) A legal practitioner is exempt from subsection 123(5A) of the Act.

## 8 Conditions

- (1) This section specifies conditions that apply to the exemption.
- (2) A person exempt from one or more provisions of the Act under section 7 (**exempt person**) may only disclose suspicious matter material to the following persons:

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- (a) the Hon Roman (Ray) Finkelstein AO QC, the Hon Neville John Owen, the Hon Carolyn Frances Jenkins and/or Colin Murphy PSM;
  - (b) a third party expert;
  - (c) other than a third party expert, a person appointed, employed contracted, seconded or engaged to assist a Royal Commission;
  - (d) Counsel Assisting a Royal Commission;
  - (e) Solicitors Assisting a Royal Commission;

provided that the recipient of the material has provided a confidentiality undertaking in the form set out in Schedule 2 prior to the disclosure of the material

Note: A person is not required to sign a confidentiality undertaking for each subsequent disclosure of suspicious matter material.

- (3) In disclosing suspicious matter material to a person specified in subsection (2), other than a person specified in paragraph 2(b), an exempt person may only disclose suspicious matter material that:
  - (a) is the subject of a coercive written notice to produce by a Royal Commission, and
  - (b) does not contain any information that can identify an individual, and
  - (c) is not a suspicious matter report given to the AUSTRAC CEO under subsection 41(2) of the Act.
- (4) In disclosing suspicious matter material to a person specified in paragraph 2(b), an exempt person may only disclose suspicious matter material that is not a suspicious matter report provided to the AUSTRAC CEO under subsection 41(2) of the Act.
- (5) Each exempt person must:
  - (a) maintain a list in the form of the confidentiality table set out in Schedule 1 of all persons who have received suspicious matter material; and
  - (b) update the list as soon as is practicable after each disclosure of suspicious matter material to an additional person; and
  - (c) send the list to the AUSTRAC CEO within 14 days after creating the list or updating the list.
- (6) Each exempt person must take all reasonable steps after the conclusion of a matter to:
  - (a) obtain all physical copies of suspicious matter material held by each recipient; and
  - (b) request the deletion of all electronic copies of suspicious material in the possession (actual or constructive) of each recipient.
- (7) Each exempt person must, in writing, notify the AUSTRAC CEO within 14 days of any event that may affect their ability to comply with this instrument.

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**Important Notice to the person named in this instrument**

1. Under subsection 248(3) of the 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 condition/s;
  - 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 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 or extend this exemption must be submitted to the AUSTRAC CEO or an approved delegate no later than 90 days before the date the change is requested to commence.
5. This exemption does not preclude the person from making communications or disclosures that are otherwise permitted by law.

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## Schedule 1—Confidentiality table

| Name | Position | Address | Date that name was provided to AUSTRAC | In relation to which specified matter |
|------|----------|---------|--|---------------------------------------|
|      |          |         |  |                                       |
|      |          |         |  |                                       |

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## Schedule 2—Confidentiality undertaking

I, \_\_\_\_\_,

of \_\_\_\_\_

undertake to AUSTRAC to:

- (1) keep suspicious matter material disclosed to me confidential at all times; and
- (2) not make public or disclose, and not cause to be made public or disclosed, suspicious matter material to any person, either directly or indirectly; and
- (3) in the case of a third party expert, not disclose any information that can identify an individual; and
- (4) not use the suspicious matter material disclosed to make findings about any persons other than Burswood, Crown Melbourne or Crown Sydney or employees thereof; and
- (5) securely store any record of suspicious matter material disclosed to me, or which I otherwise have access to; and
- (6) only disclose suspicious matter material to the following persons:
  - (a) the Hon Roman (Ray) Finkelstein AO QC, the Hon Neville John Owen, the Hon Carolyn Frances Jenkins and/or Colin Murphy PSM;
  - (b) a third party expert;
  - (c) a person appointed, employed contracted, seconded or engaged to assist a Royal Commission, but does not include persons who are third party experts;
  - (d) Counsel Assisting a Royal Commission;
  - (e) Solicitors Assisting a Royal Commission;
  - (f) a legal practitioner;in connection with a Royal Commission; and
- (7) after the conclusion of a Royal Commission, return any physical copies of documents containing suspicious matter material to Burswood, Crown Melbourne or a legal practitioner (as applicable) immediately upon request; and
- (8) after the conclusion of a Royal Commission, take all reasonable steps to delete all electronic copies of documents containing suspicious matter material immediately upon request by Burswood, Crown Melbourne or a legal practitioner.

For the avoidance of doubt, this undertaking does not preclude me from disclosing suspicious matter material under the *Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Crown Entities) Instrument 2021 (No. 11)*.

In this undertaking:

**Act** means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

**Burswood** means Burswood Nominees Limited (ACN 078 250 307) as trustee for the Burswood Property Trust.

**Crown entity** means any of the following companies in the Crown corporate group:



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**legal practitioner** means a person who is:

- (a) a legal practitioner (howsoever described) engaged by, or on behalf of, a Crown entity; or
  - (b) employed by, or contracted to, a person described in paragraph (a)
- in connection with a Royal Commission.

**Royal Commission** means any of the following:

- (a) the Royal Commission into Crown Melbourne's suitability to holds its Victorian casino licence, as well as the suitability of its associates, including Crown Resorts, established by letters patent issued in Victorian Government Gazette No. S 83, Monday 22 February 2021; or
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**suspicious matter material** means any information, the disclosure of which would engage subsections 123(1) - (3) of the Act.

**third party expert** means:

- (a) an anti-money laundering expert retained by a Royal Commission and embedded within Crown Melbourne to provide expert advice in connection with that Royal Commission; or
- (b) a person employed by a person described in paragraph (a).