



Anti-Money Laundering and Counter-Terrorism Financing Act (Exemption – Australian Retirement Trust Pty Ltd as Trustee for Australian Retirement Trust Superannuation Fund) Instrument 2022 (No. 13)

I, Kathryn Miller, National Manager, Legal and Enforcement, and delegate of the AUSTRAC CEO, make the following exemption instrument.

Dated 19 July 2022

A handwritten signature in blue ink that reads 'K. Miller'.

Kathryn Miller
National Manager, Legal and Enforcement
AUSTRAC

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1 Commencement

This Instrument commences on the day after it is signed.

2 Expiry

This Instrument ceases to have effect exactly 7 years from the date of commencement of the SFT.

3 Authority

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

4 Definitions

In this instrument:

ART means Australian Retirement Trust Pty Ltd (ABN 88 010 720 840) as Trustee for Australian Retirement Trust Superannuation Fund (ABN 60 905 115 063).

ART staff means individuals employed or engaged by SPL, PAS and OneQ prior to the SFT who will continue to provide the following services on behalf of ART during the relevant period:

- (a) monitoring ART customers and transactions in relation to the specified designated services, including ongoing customer due diligence;
- (b) escalating matters within ART, as applicable, for review, including those which may result in the lodgement of a suspicious matter report in accordance with section 41 of the AML/CTF Act by ART, as applicable;
- (c) implementing measures in respect of ART customers as instructed by ART, as applicable, including:
 - (i) measures to mitigate and manage money laundering and terrorism financing risks in relation to those customers; and
 - (ii) enhanced customer due diligence measures.
- (d) Providing information required under a notice issued to ART under section 49 of the AML/CTF Act.

Instrument means this exemption instrument.

Merged fund means an SFT resulting in the merger of Sunsuper Superannuation Fund (ABN 98 503 137 921) and QSuper Fund (ABN 60 905 115 063) into the Australian Retirement Trust Superannuation Fund (ABN 60 905 115 063)

OneQ means One QSuper Pty Ltd (ABN 90 601 938 774)

PAS means Precision Administrative Services (ACN 098 977 667)

Relevant period means the period beginning from the date of the commencement of the SFT and for exactly 7 years from the date of the SFT.

SFT means successor fund transfer.

SPL means Sunsuper Pty Ltd (ABN 88 010 720 840)

Suspicious Matter Material refers to any information, the disclosure of which would engage section 123 of the AML/CTF Act, and includes information and documents requested by authorised persons under section 49 of the AML/CTF Act in relation to a report submitted to the AUSTRAC CEO in accordance with section 41 of the AML/CTF Act.

5 Application

This Instrument applies to ART in respect of the provision of designated services described in items 42 and 43, table 1, subsection 6(2) of the AML/CTF Act.

6 Scope of exemption

During the relevant period, ART is exempt from subsections 123(1) and 123(2) of the AML/CTF Act and subject to the specified conditions in section 7 of this Instrument.

7 Conditions

Pursuant to paragraph 248(2)(b) of the AML/CTF Act, this Instrument exemption is subject to the following conditions:

- (1) The exemption only applies in relation to communications about, and disclosures of, Suspicious Matter Material that are made:
 - (a) between ART, OneQ and PAS; and
 - (b) in connection with the services described in the definition of ‘ART Staff’.
- (2) Prior to disclosing or communicating Suspicious Matter Material to a person described in the definition of ‘ART staff’, the person making the disclosure or communication must obtain from the recipient of the disclosure or communication a signed undertaking in the form set out in Schedule 1 of this Instrument.
- (3) Each of the following persons must make and retain a record of the undertakings given to that person in the form set out in Schedule 2 of this Instrument:
 - (a) ART;
 - (b) PAS; and
 - (c) OneQ.
- (4) Each of the following persons must make and retain a record of Suspicious Matter Material disclosed to a person described in the definition of ‘ART staff’:
 - (a) ART;
 - (b) PAS; and
 - (c) OneQ.
- (5) ART must notify the AUSTRAC CEO in writing within 14 days of any event that may affect its compliance with this exemption.

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 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 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 or extend the operation of this exemption must be submitted to the AUSTRAC CEO or an approved delegate no later than 8 weeks before the date the change is requested to commence.

SCHEDULE 1 - Confidentiality Undertaking

I, _____ of _____

undertake to AUSTRAC to:

1. keep the Suspicious Matter Information confidential at all times;
2. not make public or disclose the Suspicious Matter Information either directly or indirectly to any person except as permitted by this undertaking;
3. securely store any record of any Suspicious Matter Information;
4. put in place reasonable safeguards to protect any personal information contained in the Suspicious Matter Information in a manner consistent with the requirements of Australian Privacy Principle 8;
5. only disclose any Suspicious Matter Information to other individuals who have signed a confidentiality undertaking in this form; and

For the avoidance of doubt, this undertaking:

- (a) does not preclude me from disclosing information which is otherwise permitted by law; and
- (b) does not prohibit me from giving effect to an instruction from ART in relation to an ART customer provided that in giving effect to that instruction I do not disclose to the customer that:
 - i. a suspicious matter report has been submitted to AUSTRAC, or
 - ii. a suspicion has been formed for the purposes of section 41 of the AML/CTF Act, or
 - iii. information or documents have been requested by, or provided to, authorised persons under section 49 of the Act relating to a suspicious matter report.

In this undertaking:

ART means Australian Retirement Trust Pty Ltd (ABN 88 010 720 840) as Trustee for Australian Retirement Trust Superannuation Fund (ABN 60 905 115 063).

AML/CTF Act means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth)

Australian Privacy Principle has the meaning given by section 14 of the *Privacy Act 1988* (Cth)

Suspicious Matter Information refers to any information, the disclosure of which would engage section 123 of the AML/CTF Act, and includes information and documents requested by authorised persons under section 49 of the AML/CTF Act in relation to a report submitted to the AUSTRAC CEO in accordance with section 41 of the AML/CTF Act.

SCHEDULE 2 - Confidentiality Undertaking Table

AUSTRAC Exemption 13/2022

[ART / PAS / OneQ – Delete whichever not applicable]

Name	Position	Employing entity (ART / PAS / OneQ)	Date of undertaking

ART means Australian Retirement Trust Pty Ltd (ABN 88 010 720 840) as Trustee for Australian Retirement Trust Superannuation Fund (ABN 60 905 115 063)

OneQ means One QSuper Pty Ltd (ABN 90 601 938 774)

PAS means Precision Administrative Services (ACN 098 977 667)