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File Title:	CHIEF EXECUTIVE OFFICER OF THE AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE v THE STAR PTY LIMITED ACN 060 510 410 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

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CONCISE STATEMENT

**FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: NEW SOUTH WALES
DIVISION: COMMERCIAL AND CORPORATIONS**

NO NSD OF 2022

**CHIEF EXECUTIVE OFFICER OF THE AUSTRALIAN
TRANSACTION REPORTS AND ANALYSIS CENTRE**
Applicant

THE STAR PTY LIMITED
ACN 060 510 410
First Respondent

THE STAR ENTERTAINMENT QLD LIMITED
ACN 010 741 045
Second Respondent

A. IMPORTANT FACTS GIVING RISE TO THE CLAIM

The money laundering risks of casinos

1. The Star Pty Limited (**Star Sydney**) and The Star Entertainment QLD Limited (**Star Qld**) provide designated services that are regulated by the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (the **Act**). These designated services involve higher money laundering and terrorism financing (**ML/TF**) risks:
 - a. Star Sydney and Star Qld provide more than just gaming services to customers. They provide financial services that facilitate the movement of money into and out of the casino environment, including across international borders. These financial services are high value and high volume.
 - b. Cash is used extensively for gaming services at the casinos. Cash can also be transferred into and out of the casinos. The ownership of cash is less transparent than the ownership of other forms of money, and is therefore particularly vulnerable to ML/TF.
 - c. Star Sydney and Star Qld move money quickly by facilitating high volume, high frequency and high value transactions 24 hours a day, 7 days a week, including across international borders.
 - d. The designated services provided to casino customers involve long and complex transactional value chains ranging from receipt of funds, account management, gaming activities and outward disbursement of funds. These transactional chains also involve different channels and jurisdictions.

Filed on behalf of the Applicant, the Chief Executive Officer of
the Australian Transaction Reports and Analysis Centre

File ref: 21005289

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- e. Within these complex transaction chains, money used for gaming activities can be moved through further layers involving:
 - i. different and highly transferrable casino value instruments such as chips and tickets;
 - ii. multiple games, including electronic games that are not face-to-face; and
 - iii. gaming accounts.
 - f. Adding to the risk of layering through complex transaction chains, Star Sydney and Star Qld facilitated the transfer of money:
 - i. between gaming accounts held in different customer names; and
 - ii. to and from third parties via gaming accounts by way of remittance through Star bank accounts.
 - g. Star Sydney and Star Qld provide designated services to higher risk customers, including to international customers through high risk junket and rebate channels and other rebate programs.
 - h. International customers often relied on credit or loans provided by Star Sydney and Star Qld, as a means of accessing funds on arrival at the casinos. Loans enabled funds held in foreign jurisdictions (by customers or third parties) to be used in Australia without the need for a cross-border transfer. Loans could be repaid by third parties.
 - i. Casinos are exposed to significant money laundering vulnerabilities and ML/TF typologies, including structuring, smurfing, cuckoo smurfing, offsetting, even-betting, and quick/high turnover with minimal betting. Gaming accounts can also be used to store illicit money outside the banking system.
2. In the absence of appropriate risk-based controls, these combined risks made Star Sydney and Star Qld vulnerable to criminal exploitation. This is because money could be moved into and out of the casinos, and within the casinos in ways that lacked transparency as to the source and ownership of funds.

AML/CTF Programs

3. To manage these ML/TF risks, Star Sydney and Star Qld were required by s81 of the Act to adopt and maintain an Anti-Money Laundering and Counter-Terrorism Financing Program (**Program**). To meet the obligations under the Act, reporting entities that are part of a designated business group can adopt and maintain a **Joint Program**: s85 of the Act. A Joint Program comprises a Part A and a Part B: s85(1) of the Act.

Part A Programs

4. Part A of a Program must have the primary purpose of identifying, mitigating and managing the ML/TF risks reasonably faced by reporting entities with respect to designated services. Joint Part A Programs must also meet the requirements set out in the *Anti-Money Laundering and Counter-Terrorism Financing Rules 2007* (Cth) (the **Rules**): s85(2) of the Act (see paragraph 12 below).
5. Part A Programs are the framework through which Boards and senior management assess their ML/TF risks and determine their ML/TF risk appetite. They are the framework through which Boards and senior management determine the risk-based controls they will apply to mitigate and manage the ML/TF risks they choose to accept.

Part B Programs

6. Part B of a Program must set out the applicable customer identification procedures (**ACIPs**) for the purposes of the application of Part 2 of the Act to customers. Part B must also meet the requirements of the Rules: s85(3) (see paragraph 38 below).
7. Part B Programs set out the procedures through which a reporting entity collects and verifies information to enable it to know its customers (**KYC information**). ACIPs enable a reporting entity to verify the identity of its customers and to understand and assess the ML/TF risks they pose with respect to the provision of designated services.

The contraventions of s81 - the failures to adopt and maintain a Program

8. From 30 November 2016, Star Sydney and Star Qld, as members of a designated business group, each purported to adopt and maintain a **Joint Part A and Part B Program**. At no time has Star Sydney's and Star Qld's Joint Part A and Part B Program met the requirements of the Act and Rules, contrary to s85 of the Act.
9. A reporting entity contravenes s81 of the Act on each occasion that it provides a designated service where it does not have a Part A and Part B Program in place that meets the requirements of s85 of the Act.
10. Star Sydney and Star Qld have accordingly provided designated services in contravention of s81 on and from 30 November 2016. These contraventions are too numerous to quantify and are ongoing.
11. Star Sydney's and Star Qld's non-compliance with ss81 and 85 of the Act is long-standing, systemic and reflective of wholly inadequate oversight by Board and senior management. This non-compliance exposed Star Sydney and Star Qld to the risk of being exploited by organised crime.

The Part A Program failures

12. In order to have the primary purpose of identifying, mitigating and managing the ML/TF risks reasonably faced by providing designated services (s85(2)(a)) and to meet the requirements of the Rules (s85(2)(c)), Star Sydney's and Star Qld's Joint Part A Program was required to:
 - a. include a risk methodology that was capable of appropriately identifying and assessing the ML/TF risks of the designated services they provided (paragraph 14 below);
 - b. be aligned to the ML/TF risks they reasonably faced with respect to the provision of designated services, as assessed through the risk methodology (paragraphs 15 to 17 below);
 - c. include or establish an appropriate approval and oversight framework (paragraphs 18 to 24 below);
 - d. include appropriate risk-based systems and controls, capable of mitigating and managing the ML/TF risks with respect to all designated services, consistent with risk appetite (paragraphs 25 to 29 and 35 to 37 below);
 - e. include a risk-based transaction monitoring program to monitor the transactions of customers and to identify suspicious matters for the purposes of s41 of the Act (paragraph 30 below);
 - f. include a risk-based enhanced customer due diligence (**ECDD**) program that applies to customers that pose higher ML/TF risks (paragraphs 31 to 32 below); and
 - g. include appropriate systems and controls designed to ensure that reports required under Part 3 of the Act are given to AUSTRAC, namely suspicious matter reports (**SMRs**),

threshold transaction reports (**TTRs**), and international funds transfer instructions (**IFTIs**) (paragraphs 33 to 34 below).

The Joint Part A Programs

13. From 30 November 2016, Star Sydney and Star Qld failed to adopt and maintain a Joint Part A Program that met each of the requirements in paragraph 12 for the following reasons.

ML/TF risk assessment methodology

14. The Joint Part A Programs did not include a methodology:
- a. to appropriately assess the inherent ML/TF risks of the designated services provided: rules 9.1.3 and 9.1.4 of the Rules;
 - b. to measure the likelihood and impact of ML/TF risks with respect to designated services;
 - c. that covered all relevant risks and associated risk attributes reasonably faced by Star Sydney and Star Qld with respect to designated services;
 - d. that had regard to the nature, size and complexity of the Star Sydney and Star Qld businesses, including with respect to the ML/TF risks of complex designated service chains;
 - e. that had appropriate regard to the risk factors of:
 - i. customer and channel; and
 - ii. prior to 1 November 2019, jurisdiction.
- in assessing the ML/TF risks posed by each designated service: rules 9.1.4(1), (2), (3) and (4) of the Rules; and
- f. to assess the residual ML/TF risks of designated services, once risk-based controls had been applied: rules 9.1.3 and 9.1.4 of the Rules.

Alignment to current ML/TF risks

15. Once a reporting entity identifies the ML/TF risks it reasonably faces, and carries out an assessment of those risks in accordance with an appropriate ML/TF risk methodology, the reporting entity must align its Part A program to those risks as assessed. In aligning a Part A program to the ML/TF risks reasonably faced, a reporting entity must have regard to the nature, size and complexity of its business, and the ML/TF risks related to their designated services, customers, channels and the foreign jurisdictions with which they deal.
16. At no time were the Joint Part A Programs aligned to an appropriate assessment of the ML/TF risks reasonably faced by Star Sydney and Star Qld with respect to the provision of designated services:
- a. At no time prior to 1 November 2019 did Star Sydney or Star Qld carry out an assessment of the ML/TF risks they each reasonably faced with respect to the provision of designated services.
 - b. From 1 November 2019, the designated services risk registers included in the Joint Part A Programs were fundamentally deficient, did not cover all designated services, did not include key ML/TF risks reasonably faced (including with respect to channels and jurisdiction), and were not subject to appropriate review: rules 9.1.5(3) and (4) of the Rules.
17. Casinos operate in dynamic ML/TF risk environments. At no time did the Joint Part A Programs include appropriate risk-based systems and controls to identify significant changes in ML/TF risks

and to recognise such changes for the purposes of the Part A and Part B Programs. At no time did the Joint Part A Programs include appropriate risk-based systems and controls to identify, mitigate and manage ML/TF risks arising from new designated services, channels or technologies, prior to their introduction: rule 9.1.5(5) of the Rules.

Approval and oversight

18. A reporting entity the nature, size and complexity of Star Sydney and Star Qld, having regard to the ML/TF risks it reasonably faces, cannot adopt and maintain a Part A Program that has the primary purpose of identifying, mitigating and managing ML/TF risks reasonably faced with respect to the provision of designated services in the absence of a framework in the Part A program that is designed to:
- a. determine and set the reporting entity's ML/TF risk appetite;
 - b. set controls to ensure designated services are provided to customers consistently with that ML/TF risk appetite;
 - c. appropriately monitor management's performance against an appropriate ML/TF risk management framework, including the reporting entity's risk appetite;
 - d. ensure the Board receives and reviews management reports about new and emerging sources of ML/TF risk and about the measures management are taking to deal with those risks; and
 - e. establish appropriate ML/TF risk management capability frameworks, including with respect to roles and accountabilities, operational procedures, reporting lines, escalation procedures, assurance and review, and information management:

See ss81, 85(2)(a) and 85(2)(c) of the Act, rules 9.1.3, 9.1.5(4), and Part 9.4 of the Rules.

19. At all times, Star Entertainment Group Limited (**SEG**) wholly owned Star Sydney and Star Qld. At all times, the Joint Part A Programs provided that the SEG Board would approve amendments to, and have ongoing oversight of, the Joint Part A Program: rule 9.4.2 of the Rules.
20. At no time did the Joint Part A Programs meet the fundamental requirements at paragraph 18, although some independent review was conducted. As a result, the SEG Board and senior management had no basis to be satisfied that the Joint Part A Programs were operating as intended and that they had the primary purpose of identifying, mitigating and managing the ML/TF risks reasonably faced by the provision of designated services by Star Sydney and Star Qld.
21. In the face of known and serious ML/TF risks, the SEG Board and senior management failed to set any ML/TF risk appetite through the Joint Part A Programs. They failed to adopt and maintain controls to ensure that designated services were provided within an appropriate risk appetite. They failed to adopt controls to mitigate and manage the full range of ML/TF risks across all designated services provided by Star Sydney and Star Qld - both gaming and financial.
22. The SEG Board and senior management failed to establish appropriate AML/CTF capabilities and failed to invest in appropriate automated solutions. As a result, the Joint Part A Programs were not capable, by design, of operating as intended.
23. In the absence of an appropriate framework for ML/TF risk oversight, Star Sydney and Star Qld provided designated services through high risk channels that were not subject to appropriate risk-based controls - including through junket and rebate channels, Star bank account channels, and international remittance channels. In the absence of appropriate controls, Star Sydney and Star Qld provided designated services to high risk customers in circumstances where concerns should have been raised as to the legitimacy of their source of wealth or source of funds. Appropriate

risk-based processes were not in place to determine the ML/TF risk appetite with respect to such customers.

24. These failures in oversight resulted in serious and systemic non-compliance with the Act over many years. These failures allowed high risk customers to move money in non-transparent ways with minimal due diligence on ML/TF risks. These failures exposed Star Sydney and Star Qld to the risk of being exploited by organised crime.

Risk-based systems and controls applying to all designated services to manage risk within appetite

25. Once a reporting entity identifies and assesses its inherent ML/TF risks and the Board determines ML/TF risk appetite, the reporting entity must ensure that its Part A program includes appropriate risk-based systems and controls to mitigate and manage residual risks within appetite.
26. These systems and controls must be aligned with, and proportionate to, the ML/TF risks reasonably faced by the reporting entity with respect to designated services.
27. In the absence of appropriate ML/TF risk assessments, Star Sydney's and Star Qld's Joint Part A Programs were incapable by design of including appropriate risk-based systems and controls to mitigate and manage the ML/TF risks.
28. Amongst other failures, the Joint Part A Programs did not include appropriate risk-based systems and controls to appropriately identify, mitigate and manage the ML/TF risks with respect to:
- a. gaming accounts;
 - b. loans and loan repayments (through cheque cashing facilities) - including to higher risk junket operators and international customers;
 - c. designated remittance services - including cross-border remittance and remittance through higher risk channels such as:
 - i. Star bank accounts, including accounts in the name of EEI Services (Hong Kong) Limited (**EEIS**) an entity wholly owned by SEG;
 - ii. **International remittance channels**, being the Hotel Card channel, the Bank 1 (Macau) cash channel, the Customer 9 channels, overseas remitter and cash collection channels and the EEIS remittance channel.
 - d. the exchange of money for casino value instruments such as chips and tickets (and vice-versa);
 - e. table games and electronic gaming machines;
 - f. foreign currency exchange;
 - g. designated services provided in foreign currencies;
 - h. safe deposit boxes;
 - i. designated services involving cash;
 - j. designated services involving third parties; and
 - k. designated services provided through junket and rebate channels.
29. The Joint Part A Programs had few preventative controls designed to enable Star Sydney and Star Qld to mitigate and manage its ML/TF risks in respect of these designated services. The Part A controls were predominantly detective and limited to staff observation and surveillance for unusual activity that may require SMR reporting to AUSTRAC. The Part A controls were predominantly focussed on gaming services. Higher risk financial services, that permitted money

to be moved into and out of the casinos, including across international borders, were not subject to appropriate risk-based controls.

Transaction monitoring programs

30. Star Sydney and Star Qld each failed to include an appropriate risk-based transaction monitoring program in their Joint Part A Programs to monitor the transactions of their customers and to identify suspicious matters, as required by Chapter 15 and rule 9.1.3 of the Rules and s85(2)(c) of the Act as follows:
- a. As Star Sydney and Star Qld failed to appropriately identify and assess the ML/TF risks of their designated services, transaction monitoring was not aligned with and proportionate to the ML/TF risks of their businesses.
 - b. The transaction monitoring programs were not capable by design of detecting well known ML/TF typologies and vulnerabilities.
 - c. The transaction monitoring programs were predominantly manual and relied heavily on staff observation and surveillance, with inadequate guidance or criteria. This also meant Star Sydney and Star Qld were unable to monitor the movement of money through complex and layered transaction chains.
 - d. Manual transaction monitoring was not aligned to the nature, size and complexity of Star Sydney's and Star Qld's businesses, having regard to the ML/TF risks they reasonably faced.
 - e. Whilst Star Sydney and Star Qld have commenced the process of introducing automated monitoring, the uplift is ongoing and monitoring is yet to be appropriately risk-based. Nor does the transaction monitoring program appropriately cover all designated services and all ML/TF risks reasonably faced.
 - f. The transaction monitoring programs were not capable of operating as intended, due to deficiencies in information management systems and in the resourcing of the AML/CTF compliance function.
 - g. The transaction monitoring programs did not include appropriate risk-based systems and controls that were capable of monitoring all of the designated services provided by Star Sydney and Star Qld under tables 1 and 3, s6, as listed in paragraph 28.
 - h. The transaction monitoring programs did not include appropriate risk-based systems and controls to monitor the transactions of customers who received designated services through junket and rebate channels and international remittance channels.
 - i. The transaction monitoring programs did not include appropriate assurance processes.

Enhanced customer due diligence programs

31. Star Sydney's and Star Qld's Joint Part A Programs did not include appropriate systems, controls and procedures to apply appropriate risk-based ECDD to customers who were:
- a. determined to be high ML/TF risk;
 - b. foreign politically exposed persons (**PEPs**); or
 - c. the subject of a suspicion that had arisen for the purposes of s41 of the Act
(the **ECDD triggers**).
32. This was because:

- a. The ECDD programs did not include systems, controls and procedures to identify and escalate customers rated high risk, including customers known or suspected to have connections to money laundering, and foreign PEPs.
- b. The ECDD Programs were not capable of identifying and escalating customers who should have been rated high risk.
 - i. Customers were rated low risk by default, with some limited exceptions. The Part A processes for identifying and escalating customers who should not have been rated low risk were inadequate.
 - ii. The deficiencies in the Part B Programs limited Star Sydney's and Star Qld's ability to identify and escalate customers who should have been reviewed to determine whether or not they were high risk.
- c. The Joint Part A Programs were not capable of consistently identifying customers who were foreign PEPs.
- d. The ECDD Programs relied upon the transaction monitoring programs to identify customers engaging in unusual or suspicious transactions, but these processes were inadequate.
- e. Prior to April 2021, the Joint Part A Programs did not contain procedures to escalate a customer for ECDD when a s41 suspicion had in fact arisen.
- f. The ECDD Programs did not include adequate operational procedures or guidance on the appropriate suite of risk-based ECDD measures to apply in response to specific ECDD triggers. Nor was there guidance on the criteria against which customers would be reviewed.
- g. The ECDD Programs did not include appropriate systems and controls to obtain, analyse and record source of wealth and source of funds information with respect to customers.
- h. The ECDD Programs were not supported by appropriate information management and record keeping. Customer risk and transaction data was recorded against multiple customer account numbers and dispersed in multiple IT systems. Star Sydney's and Star Qld's IT and record keeping systems were not capable of providing a complete view of customers' transactions and ML/TF risk profiles for ECDD purposes.
- i. The ECDD Programs did not include appropriate systems and controls to seek senior management approval for continuing business relationships with customers, having regard to the ML/TF risks reasonably faced.
 - i. The ECDD Programs did not appropriately set out the ML/TF risk appetite that was acceptable with respect to customers.
 - ii. The processes in the ECDD Program to escalate high risk customers and foreign PEPs to senior management were inadequate.
- j. There were no appropriate processes in the ECDD Programs for senior management to determine whether a transaction or transactions should be processed having regard to ML/TF risks.

Failure to have appropriate systems and controls to ensure SMR, TTR and IFTI reporting

- 33. Star Sydney's and Star Qld's Joint Part A Programs did not include appropriate systems and controls designed to ensure compliance with their obligation to report SMRs, TTRs and IFTIs to AUSTRAC under ss41, 43 and 45 of Part 3 of the Act, as required by rule 9.9.1(2) of the Rules and s85(2)(c) of the Act.

34. The systems and controls in the Joint Part A Programs for Part 3 reporting were deficient because:
- a. The policies and guidance on identifying and assessing unusual or potentially suspicious matters were inadequate. There was little to no guidance on unusual or potentially suspicious activity relating to table 1, s6 financial services.
 - b. Resourcing for SMR reporting was inadequate.
 - c. Dispersed data sources for customer information limited Star's ability to understand a customer's transactional activity and to determine whether any particular activity was unusual or suspicious.
 - d. There was a lack of appropriate documentation, monitoring and assurance across SMR, TTR and IFTI reporting.
 - e. SMRs, TTRs and IFTI reports relating to activity on junket programs were likely to be reported under the junket operator's name (with the junket representative as agent) rather than under the name of the junket player who conducted the transaction.

The junket and rebate channels

35. At all times prior to October 2020, Star Sydney and Star Qld provided high value designated services (both gaming and financial) through junket and rebate channels. Designated services provided through these channels involved complex value chains including credit, remittance, gaming accounts and gaming. Junkets involved the movement of large amounts of money across borders and through multiple bank accounts, including by third parties, remitters and overseas deposit services. The identities of persons conducting transactions through junket programs, and the source and ownership of their funds, was often obscured. A number of junket operators and representatives were reportedly connected to organised crime.
36. The systemic deficiencies in the Joint Part A Programs were reflected in the poor ML/TF risk management of junkets and rebate programs.
37. Star Sydney and Star Qld did not carry out an appropriate ML/TF risk assessment of the higher ML/TF risks of providing designated services through the junket and rebate channels. Board and senior management oversight with respect to junkets and rebate programs was seriously deficient. No ML/TF risk appetite was set with respect to designated services facilitated through junkets and rebate programs. At no time did the Joint Part A Programs include appropriate risk-based controls to identify, mitigate and manage the ML/TF risks of designated services provided through these channels. Instead of applying heightened risk-based controls, Star Sydney and Star Qld permitted some junket operators to: operate cash administration desks in private gaming rooms; facilitate the distribution of winnings to junket players and third parties; and facilitate transactions through non-transparent Star bank accounts and through other overseas remittance channels.

The Part B Program failures

38. Part 2 of the Act, as relevantly modified by Chapter 10 and rule 14.4 of the Rules (made under s39 of the Act), required Star Sydney and Star Qld to identify their customers in accordance with the ACIPs they established in Part B of their Programs. Chapter 4 of the Rules, made under s85(3)(b) of the Act, set out the relevant requirements for Part B Programs.
39. From 30 November 2016, the Joint Part B Programs did not include appropriate risk-based systems and controls that were designed to enable Star Sydney and Star Qld to be reasonably

satisfied, where the customer was an individual, that the customer was the individual they claimed to be: rule 4.2.2 of the Rules.

40. Star Sydney and Star Qld applied the same safe harbour ACIP to all customers, regardless of ML/TF risk.
41. Contrary to the requirements of Chapter 4 of the Rules, at no time did the Joint Part B Programs:
 - a. include risk-based systems and controls to identify customers who were not low risk at the time the ACIP was being carried out: rules 4.2.2 and 4.1.3 of the Rules;
 - b. appropriately consider the ML/TF risk posed by customer types, including customers receiving designated services through junkets, international customers and foreign PEPs: rules 4.2.2, 4.1.3(1), 4.1.3(2) and 4.13.3 of the Rules;
 - c. consider the ML/TF risk posed by a customer's sources of wealth and funds: rules 4.2.2 and 4.1.3(2) of the Rules;
 - d. consider the ML/TF risk posed by the nature and purpose of the business relationship with its customers, including as appropriate, the collection of information relevant to that consideration - particularly with respect to junket operators, representatives and players: rules 4.2.2 and 4.1.3(3) of the Rules;
 - e. consider the ML/TF risk posed by the types of designated services Star Sydney and Star Qld provided, together with the methods or channels by which designated services were delivered: rules 4.2.2 and 4.1.3(5) and (7) of the Rules;
 - f. consider the ML/TF risk posed by the ML/TF risk factor of jurisdiction: rules 4.2.2 and 4.1.3(7) of the Rules;
 - g. include appropriate risk-based systems and controls for Star Sydney and Star Qld to determine whether additional KYC information would be collected about a customer and/or verified: rules 4.2.2, 4.2.5 and 4.2.8 of the Rules;
 - h. include ACIPs to be applied to all customers who Star Sydney and Star Qld were required to identify for the purposes of Part 2 of the Act - including customers who were not subject to exemptions or customers seeking table 1, s6 financial services: section 84(3)(a) of the Act; see also ss 32 and 39 of the Act; and Chapter 10 and rule 14.4 of the Rules;
 - i. include an appropriate procedure to collect information and documents about an agent of a customer (who was an individual) and did not include appropriate risk-based systems and controls to determine whether to verify (and to what extent) the identity of the agent: Part 4.11 of the Rules;
 - j. include appropriate risk-management systems to consistently determine whether a customer was a PEP, either before the provision of a designated service to the customer or as soon as practicable after the designated service has been provided: rule 4.13.1 of the Rules; and
 - k. comply with the requirements of rule 4.13.3 of the Rules with respect to PEPs.

Ongoing customer due diligence failures –1,514 contraventions of s36 of the Act

42. Together, Star Sydney and Star Qld failed to carry out appropriate due diligence on their customers, with a view to identifying, mitigating and managing known ML/TF risks on 1,514 occasions contrary to s36 of the Act.

The 117 customers posing high ML/TF risks - 176 contraventions

43. On and from 30 November 2016, Star Sydney and Star Qld provided designated services to 117 customers, in respect of whom high ML/TF risks were indicated. With respect to the 117 customers:
- a. many were junket operators, junket funders, junket representatives or junket players;
 - b. many were foreign PEPs, or a person that Star Sydney and Star Qld otherwise determined to be high risk;
 - c. many were connected to other Star Sydney and Star Qld customers including customers who posed higher ML/TF risks and players who Star Sydney and Star Qld considered had acted suspiciously. Some customers were connected to former Star Sydney and Star Qld customers who had been banned from those properties;
 - d. some customers were permitted to attend Star Qld despite being subject to a law enforcement ban in New South Wales;
 - e. many remitted large amounts of money into, out of, and within the casino environment, including to or from other Star Sydney and Star Qld customers in circumstances where Star Sydney and Star Qld were not aware of, or did not understand, the connection between those customers;
 - f. many remitted large amounts of money into using high risk international remittance channels, including with the involvement of third parties such as Customer 9;
 - g. many engaged in large financial transactions with unknown domestic or international third parties;
 - h. many engaged in transactions indicative of known ML/TF typologies and vulnerabilities including structuring, offsetting, cuckoo smurfing, cashing-in large value chips with no evidence of play, and quick turnover of funds without betting;
 - i. many engaged in large cash transactions and transacted with cash that appeared suspicious, including cash in plastic bags, shoeboxes or cardboard boxes, cash in rubber bands, small denominations of notes and counterfeit cash;
 - j. many engaged in large and unusual transactions and patterns of transactions, which had no apparent economic or visible lawful purpose;
 - k. Star Sydney and Star Qld submitted numerous SMRs which reported repeated unusual or suspicious activity;
 - l. Star Sydney and Star Qld were aware that some of the customers had been charged or arrested in connection with offences, including dealing with the proceeds of crime and money laundering; and
 - m. Star Sydney and Star Qld were aware of information suggesting that some customers were connected to organised crime or that their source of funds or source of wealth may otherwise not be legitimate.
44. Despite these ML/TF risks, Star Sydney and Star Qld continued to provide designated services to these customers, without carrying out appropriate risk-based ongoing due diligence, including enhanced customer due diligence. From 30 November 2016, these customers were either:
- a. not appropriately escalated to senior management in response to emerging ML/TF risks to determine whether an ongoing business relationship was within Star Sydney and Star Qld's ML/TF risk appetite; or

- b. if senior management did consider the ongoing business relationship, appropriate regard was not had to the ML/TF risks posed by the customers and the provision of designated services to the customers by Star Sydney or Star Qld.
45. On and from 30 November 2016, designated services provided to these customers involved a turnover¹ by these customers in excess of \$90 billion.
46. As some of these 117 customers were customers of both Star Sydney and Star Qld, they account for 176 contraventions in total.

The 1,221 customers transacting through high ML/TF risk channels - 1,325 contraventions

47. From 1 December 2016 to 18 February 2022, 1,087 customers of Star Sydney and 238 customers of Star Qld remitted money through the following high risk channels:
- a. the Hotel Card channel;
 - b. the Bank 1 (Macau) cash channel;
 - c. the Customer 9 channels;
 - d. the EEIS remittance channel; and
 - e. the bank accounts held by Star Sydney and Star Qld.
48. Payments through these channels carried higher ML/TF risks because:
- a. there was little to no transparency as to the source of funds;
 - b. third party transactions were facilitated, as were cash deposits;
 - c. the channels at a. to d. obscured that the customer was remitting money to an Australian casino;
 - d. they were used to remit large amounts of money for or on behalf of high risk customers, including junket operators, junket funders, and foreign PEPs. A number of the customers using these channels were reportedly connected to organised crime; and
 - e. they were used for purposes including the repayment of money owed to Star Sydney and Star Qld under cheque cashing facilities, and therefore were vulnerable to offsetting.
49. At no time Star Sydney and Star Qld apply appropriate risk-based transaction monitoring to transactions through these channels. Nor did the Joint Part A Programs include appropriate risk-based systems and controls to understand the source of funds. For these reasons, Star Sydney and Star Qld failed to monitor these customers with a view to identifying, mitigating and managing ML/TF risks.
50. The transactions facilitated by Star Sydney and Star Qld customers through these channels, giving rise to the 1,325 contraventions, were just under \$617.6 million. As some of these 1,221 customers were customers of both Star Sydney and Star Qld, they account for 1,325 contraventions in total.

Customers excluded by NSW law enforcement – 13 contraventions

51. From 30 November 2016 to 26 March 2022, 15 Star Sydney customers, who were subject to exclusion orders issued by law enforcement in NSW (**Sydney excluded customers**), were

¹ In the casino context, turnover means the total amount wagered including any re-invested winnings.

subsequently provided designated services by Star Qld. Two of these customers are included in the 117 customers posing high ML/TF risks.

52. Star Qld failed to:
 - a. identify, escalate and appropriately risk rate Sydney excluded customers;
 - b. determine whether ECDD measures should be applied, including whether designated services should be, or should continue to be, provided to Sydney excluded customers having regard to ML/TF risks.
53. With respect to each of these Sydney excluded customers, Star Qld provided incentives to attract them to the Star Qld casinos.
54. The failure to monitor Sydney excluded customers exposed Star Qld to the risk of being exploited by organised crime.

B. THE RELIEF SOUGHT FROM THE COURT

55. The Applicant seeks the following relief from the Court:
 - a. declaratory relief under s21 of the *Federal Court of Australia Act 1976* (Cth);
 - b. orders for civil pecuniary penalties under s175 of the Act; and
 - c. costs.

C. THE PRIMARY LEGAL GROUNDS FOR THE RELIEF SOUGHT

56. Star Sydney and Star Qld have each contravened s81 of the Act on an innumerable number of occasions on and from 30 November 2016.
57. Star Sydney has contravened s36 of the Act on 1,189 occasions in the period on and from 30 November 2016. Star Qld has contravened s36 of the Act on 325 occasions in the period on and from 30 November 2016.
58. Each contravention attracts a maximum civil penalty between \$18 million and \$22.2 million.

D. THE ALLEGED HARM SUFFERED

59. Star Sydney and Star Qld operate in an industry known, internationally and within Australia, to pose high ML/TF risks. The SEG Board and senior management failed to adopt and maintain Programs to control those ML/TF risks appropriately. The casinos accordingly facilitated the provision of designated services in the billions of dollars in the absence of appropriate ML/TF controls.
60. Star Sydney and Star Qld facilitated the movement of money into and out of the casino environment by way of designated remittance services, including through the international remittance channels. By facilitating this movement of money without appropriate AML/CTF controls, Star Sydney and Star Qld exposed their banking partners and other financial institutions in transaction chains to ML/TF risks.
61. As a result of Star Sydney's and Star Qld's non-compliance, the Australian and global community and financial system has been exposed to systemic ML/TF risks over many years. It is likely that many ML/TF risks were realised and that Star Sydney and Star Qld were at risk of being exploited by organised crime.

62. In the absence of appropriate ML/TF risk oversight, Star Sydney and Star Qld engaged in high risk practices, developed non-transparent channels and accepted high risk ongoing customer relationships. This permitted customers to move money through designated services in ways that involved ML/TF risks over and above those set out at paragraph 1. For example:
- a. Star Sydney and Star Qld permitted customers to remit money through the Hotel Card channel. The operator of the Hotel Card debit card scheme prohibited the use of its card services for the purpose of gaming. SEG hotel records presented the Hotel Card payments as relating to hotel charges, sometimes listing dummy rooms. The Hotel Card payments were not payments relating to SEG hotel charges. The SEG hotel records created a misleading record of the purpose and nature of the transaction. From mid-2019 senior management of SEG were aware that the issuer of the cards used in the Hotel Card channel had raised concerns with Bank 2 about transactions that had been identified as suspiciously large gambling transactions. SEG senior management misled Bank 2 as to the nature of the Hotel Card transactions.
 - b. Star Sydney and Star Qld permitted customers to deposit cash into Star bank accounts with Bank 1 (Macau) in circumstances where they had no systems or controls in place to understand the source of funds. SEG employees provided false or misleading information to Bank 1 (Macau) as to the source of funds for an unknown number of these cash deposits.
 - c. When Bank 1 (Macau) closed these accounts, Star Sydney made money available to its customers through the Customer 9 channels. Customer 9 or his associates collected money for or on behalf of customers, including in the form of cash, chips from Macau-based casinos, or transfers from Macau-based junket accounts. Star Sydney had no visibility over the source of funds.
 - d. Where Macau-based customers were prepared to repay CCFs in cash only, SEG Macau referred the customers to a remitter based in Hong Kong. The remitter was not licenced to collect cash in Macau. The money was remitted to Star Sydney through other remitters, creating an additional layer of non-transparency.
 - e. Star Sydney and Star Qld used bank accounts in the name of EEIS to accept customer deposits. The EEIS remittance channel was developed by SEG to obscure that Star Sydney and Star Qld customers were remitting money to an Australian casino.
 - f. Star Sydney and Star Qld made money available to customers that had been deposited into Star bank accounts by third parties, including by overseas remittance service providers, companies, and individuals, in circumstances where there was no visibility over source of funds.
 - g. Junket operators were provided exclusive and non-exclusive access to private gaming rooms at Star Sydney and Star Qld. Some of these junket operators and their representatives were known to have connections to organised crime. Star Sydney and Star Qld also gave junket and international customers access to safe deposit boxes in private gaming rooms to store cash. Star Sydney and Star Qld had limited visibility over transactions in private gaming rooms, making it difficult to detect loan-sharking or money lending.
 - h. Suncity was provided exclusive access to private gaming rooms at Star Sydney and Star Qld. Suncity was also permitted to operate a cash administration desk in a private gaming room at Star Sydney, which was vulnerable to being used to facilitate large cash and chip transactions without oversight. Star Sydney and Star Qld continued its business relationship with Suncity, in spite of numerous suspicious incidents involving cash in connection with the cash administration desk, including incidents in which Suncity staff attempted to conceal

suspicious cash transactions out of view of CCTV by repacking cash in a computer cupboard or storing bags of cash on a balcony.

- i. Star Qld provided customers excluded by law enforcement in NSW with incentives to patronise Star Qld casinos, including customers with reputed links to organised crime.
63. Appropriate controls were not in place to enable Star Sydney and Star Qld to understand the sources of money moving through these high risk channels, or whether there was a risk that money was illicit. These business practices and risk management failures exposed Star Sydney and Star Qld to the risk of money laundering. Star Sydney and Star Qld chose to elevate their customers' desire for privacy over AML/CTF compliance, including in cases where Star Sydney and Star Qld were aware customers had raised red flags.
64. In the absence of appropriate ML/TF controls, Star Sydney and Star Qld facilitated the movement of significant amounts of money through high risk and non-transparent channels. A significant number of these transactions were also indicative of ML/TF typologies or vulnerabilities. By way of example, on and from 30 November 2016:
- a. From 9 December 2016 to 29 November 2017 at least \$28 million was remitted to Star Sydney and Star Qld through the Bank 1 (Macau) cash channel, in circumstances where false or misleading information was provided by SEG to Bank 1 as to the source of funds with respect to some of these transactions.
 - b. At least \$140 million was remitted to Star Sydney and Star Qld customers through the Customer 9 channels from January 2018 to September 2019, where the source of funds could not be known.
 - c. At least \$548 million was remitted to Star Sydney and Star Qld customers through the Hotel Card channel from 30 November 2016 to 18 February 2022, involving ML/TF risks including capital flight.
 - d. From 30 November 2016 at least \$154 million deposits were made by third parties into Star bank accounts via the EEIS remittance channel,² exposing Star Sydney and Star Qld to ML/TF risks as to the source of funds.
 - e. In mid-2018, Star Sydney identified numerous suspicious incidents involving cash connected with a cash administration desk in a private gaming room in Star Sydney to which Suncity was given exclusive access. Star Sydney did not know how much cash was involved in these suspicious incidents, in circumstances where the identity of some of the persons presenting and removing the cash from the casino premises was and remains unknown. As Star Sydney did not appropriately monitor cash transactions in private gaming rooms, at no time was it fully aware of the extent of ongoing suspicious cash activity.
65. On and from 30 November 2016, Star Sydney provided designated services to 1,189 high risk customers and Star Qld provided designated services to 325 high risk customers, without carrying out appropriate risk-based due diligence, including through some of the non-transparent and high risk channels identified at paragraph 64. On and from 30 November 2016, Star Qld provided table 1 and table 3 designated services to customers who were excluded by NSW law enforcement. Turnover recorded by Star Qld for two of these customers alone was in excess of \$313 million. Star Sydney and Star Qld chose to continue business relationships with these high risk customers, including high value customers with reported links to organised crime.

² The figure of \$154 million excludes third party deposits received through the EEIS remittance channel that were remitted through the Customer 9 channels.

66. The non-transparent movement of money and deficiencies in KYC records inhibit the ability of law enforcement and AUSTRAC to trace money to its source. This inhibits law enforcement investigations, prosecutions and the recovery of proceeds of crime. Where money can be moved quickly and across borders, it can be even more difficult to trace and recover. These issues were compounded by Star Sydney's and Star Qld's failures to ensure appropriate systems and controls to fully and accurately report SMRs, TTRs and IFTIs. Star Sydney's and Star Qld's conduct has undermined the objectives of the Act.
67. The ML/TF risk management failures occurred in circumstances where Star Sydney and Star Qld were operating a highly profitable business. Between July 2016 and October 2020, Star Sydney and Star Qld made over \$1.6 billion in revenue from junkets. By failing to comply with the Act and Rules, Star Sydney and Star Qld avoided expending funds that should have been invested in compliance including on IT, staffing and the development of AML/CTF controls. The money saved by Star Sydney and Star Qld by its non-compliance is reflected in its lack of expenditure on risk management and compliance.

CERTIFICATE OF LAWYER

I, Sonja Marsic, certify to the Court that, in relation to the concise statement filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 30 November 2022



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Sonja Marsic
AGS Lawyer
for and on behalf of the Australian Government Solicitor
Lawyer for the Applicant