



Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Crown Entities) Instrument 2023 (No. 5)

I, Jennifer Ermert, make the following instrument as a delegate of the AUSTRAC CEO.

Dated 24/2/23

Jennifer Ermert

Acting General Counsel, Legal and Enforcement
Australian Transaction Reports and Analysis Centre

Contents

1 Name.....	1
2 Commencement	1
3 Cessation.....	1
4 Authority.....	1
5 Definitions	1
6 Application	2
7 Exempt person and provisions	2
8 Conditions.....	2
Schedule 1—Confidentiality table	5
Schedule 2—Confidentiality undertaking	6

1 Name

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Crown Entities) Instrument 2023 (No. 5)*.

2 Commencement

This instrument commences on the day after it is signed.

3 Cessation

Three years from the date of commencement of this instrument.

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 (Cth)*.

AML/CTF service (short for anti-money laundering and counter-terrorism financing service) means providing independent validation of a Crown entity's remediation activities program through review of relevant artefacts, including internal and external reports which gave rise to remediation initiatives, and sample testing in order to validate that remediation activities have been completed.

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 Resorts;
- (d) Crown Sydney.

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

Crown Resorts means Crown Resorts Limited (ACN 125 709 953).

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

exempt person means a person exempt from one or more provisions of the Act under section 7 of this instrument.

suspicious matter material means any information, the disclosure of which would engage subsections 123(1) and (2) of the Act.

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

specialist service provider means a partner or employee of Ernst & Young (ABN 75 288 172 749) providing an AML/CTF service.

6 Application

- (1) This instrument applies to the disclosure of suspicious matter material by a Crown entity in connection with the AML/CTF service.

7 Exempt person and provisions

- (1) A Crown entity is exempt from subsections 123(1) and (2) of the Act.

8 Conditions

- (1) This section specifies conditions that apply to the exemption.
 - (a) An exempt person may only disclose suspicious matter material to a specialist service provider, only where the recipient of the suspicious matter 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.
- (2) 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; and
 - (d) ensure that suspicious matter material is not disclosed, or caused to be disclosed, outside of Australia.
- (3) Each exempt person must take all reasonable steps after the conclusion of the engagement of a specialist service provider to:
 - (a) obtain all physical copies of suspicious matter material held by each specialist service provider; and
 - (b) request the deletion of all electronic copies of suspicious matter material in the possession (actual or constructive) of each specialist service provider.

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- (4) 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.
 - (5) A Crown Entity must not provide a specialist service provider with access to suspicious matter material except where such specialist service provider is domiciled and employed in Australia.

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.

Schedule 1—Confidentiality table

Name	Position	Address	Date name was provided to AUSTRAC

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, unless the disclosure is permitted by this undertaking; and
- (3) securely store any record of suspicious matter material disclosed to me, or which I otherwise have access to; and
- (4) only disclose suspicious matter material to the following persons:
 - (a) an employee or director of Burswood;
 - (b) an employee or director of Crown Melbourne;
 - (c) an employee or director of Crown Sydney;
 - (d) an employee or director of Crown Resorts; and
 - (e) a specialist service provider;during the course of providing AML/CTF Services; and
- (5) after the conclusion of my employment or engagement, or upon request, return any physical copies of documents containing suspicious matter material to a Crown entity immediately upon request; and
- (6) take all reasonable steps to delete all electronic copies of documents containing suspicious matter material immediately upon request by a Crown entity.

In this undertaking:

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

AML/CTF service (short for anti-money laundering and counter-terrorism financing services) means providing independent validation of a Crown entity's remediation activities program through review of relevant artefacts, including internal and external reports which gave rise to remediation initiatives, and sample testing in order to validate that remediation activities have been completed.

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(d) Crown Sydney.

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

Crown Resorts means Crown Resorts Limited (ACN 125 709 953)

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

suspicious matter material means any information, the disclosure of which would engage subsections 123(1) and (2) of the Act, and includes information and documents requested by authorised persons under section 49 of the Act.

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

specialist service provider means a partner or employee of Ernst & Young (ABN 75 288 172 749) providing an AML/CTF service.