



Anti-Money Laundering and Counter-Terrorism Financing Act (Exemption – Dexus Capital) Instrument 2023 (No. 11)

I, Daniel Mossop, make the following instrument as a delegate of the AUSTRAC CEO.

Dated 4 October 2023

A handwritten signature in blue ink, appearing to read 'D Mossop', is written over the printed name.

Daniel Mossop
National Manager, Reform Policy and Mutual Evaluation
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 24 months from the date the instrument is signed.

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

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

- (a) AML/CTF Rules
- (b) customer
- (c) designated business group
- (d) designated service

In this instrument:

AMPCOI means AMP Capital Office and Industrial Pty Ltd (ABN 44 099 105 094).

AMPCOI AML/CTF Services means the following services that employees of AMPCOI may provide to a Dexus Capital DBG member:

- (a) monitor a Dexus Capital DBG member's customers and transactions relating to the provision of designated services to those customers;
- (b) form suspicions about matters referred to in subsection 41(1) of the Act on behalf of the Dexus Capital DBG member;
- (c) escalate suspicious matters to the Dexus Capital DBG member to determine if a suspicious matter reporting obligation has arisen;
- (d) submit suspicious matter reports to AUSTRAC on behalf of the Dexus Capital DBG member;
- (e) implement measures to identify, mitigate and manage money laundering or terrorism financing risks the Dexus DBG member may face in relation to the provision of designated services to its customers, if instructed to do so by the Dexus DBG member, including ongoing customer due diligence and enhanced customer due diligence.

AMP Services means AMP Services Limited (ABN 50 081 143 786).

AMP AML/CTF Services means services that:

- (a) are provided by AMP Services to a Dexus Capital DBG member, pursuant to a written agreement;
- (b) relate to the provision of designated services by a Dexus Capital DBG member to a customer of the Dexus Capital DBG member; and
- (c) enable a Dexus Capital DBG member to comply with obligations imposed by Part 2 of the AML/CTF Act.

Dexus AML/CTF Services means the following services that employees of Dexus Holdings may provide to a Dexus Capital DBG member:

- (a) monitor a Dexus Capital DBG member's customers and transactions relating to the provision of designated services to those customers;
- (b) form suspicions about matters referred to in subsection 41(1) of the Act on behalf of the Dexus Capital DBG member;
- (c) escalate suspicious matters to the Dexus Capital DBG member to determine if a suspicious matter reporting obligation has arisen;
- (d) submit suspicious matter reports to AUSTRAC on behalf of the Dexus Capital DBG member;
- (e) implement measures to identify, mitigate and manage money laundering or terrorism financing risks the Dexus Capital DBG member may face in relation to the provision of designated services to its customers, if instructed to do so by the Dexus Capital DBG member, including ongoing customer due diligence and enhanced customer due diligence.

Dexus Capital DBG means the designated business group established by Dexus Holdings under Chapter 2 of the AML/CTF Rules.

Dexus Capital DBG member means:

- (a) AMP Capital Funds Management Limited (ABN 15 159 557 721);
- (b) AMP Investment Services Pty Ltd (ABN 71 063 986 989); or
- (c) AMP Capital Investors Ltd (ABN 59 001 777 591) from the date the Dexus Capital DBG Nominated Contact Officer notifies the AUSTRAC CEO under rule 2.1.2(3)(b) of the AML/CTF Rules that it has become a member of the Dexus Capital DBG, provided such notification occurs within 12 months of the date of this Instrument.

Dexus Holdings means Dexus Holdings Pty Ltd (ACN 110 366 946).

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 a Dexus Capital DBG member in respect of the provision of designated services described in items 6, 7, 33, 35, 46, and 54 of table 1 in subsection 6(2) of the AML/CTF Act.

6 Scope of exemption

Subject to the conditions specified in section 7 of this instrument:

- (1) A Dexus Capital DBG member is exempt from subsections 123(1) and 123(2) of the AML/CTF Act;
- (2) AMP Services, AMPCOI and Dexus Holdings are exempt from subsection 123(2) of the AML/CTF Act.

7 Conditions

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

- (1) The exemption only applies in relation to communications about, and disclosures of, Suspicious Matter Material:
 - (a) by a Dexus Capital DBG member to AMP Services, in connection with the provision of AMP AML/CTF Services;
 - (b) by a Dexus Capital DBG member to Dexus Holdings, in connection with the provision of Dexus AML/CTF Services;
 - (c) by a Dexus Capital DBG member to AMPCOI, in connection with the provision of AMPCOI AML/CTF Services; or
 - (d) by AMP Services to Dexus Holdings or to AMPCOI, in connection with the provision of AMP AML/CTF Services.
- (2) A Dexus Capital DBG member must enter into a confidentiality agreement with AMP Services and provide the AUSTRAC CEO with a copy of the confidentiality agreement within 14 days of both parties signing the confidentiality agreement.
- (3) A Dexus Capital DBG member must enter into a confidentiality agreement with Dexus Holdings and provide the AUSTRAC CEO with a copy of the confidentiality agreement within 14 days of both parties signing the confidentiality agreement.
- (4) A Dexus Capital DBG member must enter into a confidentiality agreement with AMPCOI and provide the AUSTRAC CEO with a copy of the confidentiality agreement within 14 days of both parties signing the confidentiality agreement.
- (5) The confidentiality agreement must:
 - (a) be enforceable by injunction or damages;
 - (b) in the case of AMP Services, be entered into before any AMP AML/CTF Services are provided to the Dexus Capital DBG member;
 - (c) in the case of AMP Services, continue in force until the AMP AML/CTF Services are no longer provided, and AMP Services is no longer in possession of Suspicious Matter Material related to customers of a Dexus Capital DBG member;
 - (d) in the case of Dexus Holdings, be entered into before any Dexus AML/CTF Services are provided to the Dexus Capital DBG member;
 - (e) in the case of Dexus Holdings, continue in force until the Dexus AML/CTF Services are no longer provided, and Dexus Holdings is no longer in possession of Suspicious Matter Material related to customers of a Dexus Capital DBG member;
 - (f) in the case of AMPCOI, be entered into before any AMPCOI AML/CTF Services are provided to the Dexus Capital DBG member;
 - (g) in the case of AMPCOI, continue in force until the AMPCOI AML/CTF Services are no longer provided, and AMPCOI is no longer in possession of

Suspicious Matter Material related to customers of a Dexus Capital DBG member.

- (6) A confidentiality agreement between a Dexus Capital DBG member and AMP Services must incorporate the following obligations:
- (a) AMP Services must not communicate, or make disclosures of, Suspicious Matter Material relating to the customers of the Dexus Capital DBG member to any person other than:
 - (i) the Dexus Capital DBG member; or
 - (ii) if requested to do so in writing by the Dexus Capital DBG member, Dexus Holdings or AMPCOI;
 - (iii) if the Dexus Capital DBG member is permitted to disclose the material to a person mentioned in section 123 of the Act—that person; or
 - (iv) the AUSTRAC CEO; or
 - (v) a member of the staff of AUSTRAC;
 - (b) AMP Services must:
 - (i) keep Suspicious Matter Material confidential at all times; and
 - (ii) securely store any record of Suspicious Matter Material; and
 - (iii) put in place adequate safeguards to protect Suspicious Matter Material from unauthorised use or access; and
 - (iv) make and retain a record of Suspicious Matter Material disclosed under subsection (1); and
 - (v) make and retain a record of the undertakings given in compliance with subsection (9), in the form set out in Schedule 2.
- (7) A confidentiality agreement between a Dexus Capital DBG member and Dexus Holdings must incorporate the following obligations:
- (a) Dexus Holdings must not communicate, or make disclosures of, Suspicious Matter Material relating to the customers of the Dexus Capital DBG member to any person other than:
 - (i) the Dexus Capital DBG member; or
 - (ii) if requested to do so in writing by the Dexus Capital DBG member, AMPCOI; or
 - (iii) if the Dexus Capital DBG member is permitted to disclose the material to a person mentioned in section 123 of the Act—that person; or
 - (iv) the AUSTRAC CEO; or
 - (v) a member of the staff of AUSTRAC;
 - (b) Dexus Holdings must:
 - (i) keep Suspicious Matter Material confidential at all times; and
 - (ii) securely store any record of Suspicious Matter Material; and
 - (iii) put in place adequate safeguards to protect Suspicious Matter Material from unauthorised use or access; and
 - (iv) make and retain a record of Suspicious Matter Material disclosed under subsection (1); and
 - (v) make and retain a record of the undertakings given in compliance with subsection (9), in the form set out in Schedule 2.
- (8) A confidentiality agreement between a Dexus Capital DBG member and AMPCOI must incorporate the following obligations:

- (a) AMPCOI must not communicate, or make disclosures of, Suspicious Matter Material relating to the customers of the Dexus Capital DBG member to any person other than:
 - (i) the Dexus DBG member; or
 - (ii) if requested to do so in writing by the Dexus Capital DBG member, Dexus Holdings; or
 - (iii) if the Dexus Capital DBG member is permitted to disclose the material to a person mentioned in section 123 of the Act—that person; or
 - (iv) the AUSTRAC CEO; or
 - (v) a member of the staff of AUSTRAC;
- (b) AMPCOI must:
 - (i) keep Suspicious Matter Material confidential at all times; and
 - (ii) securely store any record of Suspicious Matter Material; and
 - (iii) put in place adequate safeguards to protect Suspicious Matter Material from unauthorised use or access; and
 - (iv) make and retain a record of Suspicious Matter Material disclosed under subsection (1); and
 - (v) make and retain a record of the undertakings given in compliance with subsection (9), in the form set out in Schedule 2.
- (9) Prior to disclosing or communicating Suspicious Matter Material to an employee of AMP Services or of Dexus Holdings or of AMPCOI under subsection (1), 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.
- (10) A Dexus Capital DBG member must make and retain a record of Suspicious Matter Material disclosed under subsection (1).
- (11) A Dexus Capital DBG member must make and retain a record of the undertakings given in compliance with subsection (9), in the form set out in Schedule 2.
- (12) A Dexus Capital DBG member must provide the AUSTRAC CEO, in writing, with updates every six months from the date this instrument commences, regarding its progress in building and implementing the necessary systems and controls that enable it to meet its obligations under the Act.
- (13) A Dexus Capital DBG member 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 Suspicious Matter Material confidential at all times;
2. not make public or disclose Suspicious Matter Material either directly or indirectly to any person except as permitted by this undertaking;
3. securely store any record of Suspicious Matter Material;
4. put in place reasonable safeguards to protect any personal information contained in the Suspicious Matter Material in a manner consistent with the requirements of Australian Privacy Principle 8;
5. only disclose Suspicious Matter Material to an individual who has signed an undertaking in this form and who is either:
 - a. an employee of AMP Capital Office and Industrial Pty Ltd (ABN 44 099 105 094);
 - b. an employee of AMP Services Limited (ABN 50 081 143 786); or
 - c. an employee of Dexus Holdings Pty Ltd (ACN 110 366 946);during the course of providing AML/CTF Services;
6. At all times, comply with the Privacy Act in respect of any personal information contained in Suspicious Matter Material.

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 a Dexus Capital DBG member in relation to a customer of that Dexus Capital DBG member, provided that in giving effect to that instruction I do not disclose to the customer that:
 - i. the Dexus Capital DBG member is required to submit suspicious matter reports to AUSTRAC under s 41(2) of the AML/CTF Act;
 - ii. a suspicious matter report has been submitted to AUSTRAC; or
 - iii. a suspicion has been formed for the purposes of section 41 of the AML/CTF Act; or
 - iv. information or documents have been requested by, or provided to, authorised persons under section 49 of the AML/CTF Act relating to a suspicious matter report.

In this undertaking:

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

Australian Privacy Principle has the meaning given by section 6 of the Privacy Act.

Dexus Capital DBG means the designated business group established by Dexus Holdings Pty Ltd (ACN 110 366 946) under Chapter 2 of the AML/CTF Rules.

Dexus Capital DBG member means:

- (a) AMP Capital Funds Management Limited (ABN 15 159 557 721);
- (b) AMP Investment Services Pty Ltd (ABN 71 063 986 989); and

- (c) AMP Capital Investors Ltd (ABN 59 001 777 591) from the date the Dexus Capital DBG Nominated Contact Officer notifies the AUSTRAC CEO under rule 2.1.2(3)(b) of the AML/CTF Rules that it has become a member of the Dexus Capital DBG.

Privacy Act means the *Privacy Act 1988* (Cth).

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.

SCHEDULE 2 - Confidentiality Undertaking Table

AUSTRAC Exemption 11/2023

Name	Position	Employing entity	Date of undertaking