



## **Anti-Money Laundering and Counter-Terrorism Financing Act (Exemption – Dexus DBG) Instrument 2023 (No. 15)**

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

Dated 22 December 2023

A handwritten signature in blue ink, appearing to read 'D Mossop', is positioned above 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 on 31 July 2027.

## 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
- (e) reporting entity

In this instrument:

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

**AML/CTF services** (short for anti-money laundering and counter-terrorism financing services) means the following services that may be provided by AMPCOI or Dexus Holdings to a Dexus DBG member:

- (a) monitor a Dexus DBG member's customers and transactions relating to the provision of designated services to those customers;
- (b) carry out 'watchlist' screenings of a Dexus DBG customer;
- (c) form suspicions about matters referred to in subsection 41(1) of the AML/CTF Act on behalf of the Dexus DBG member;
- (d) escalate suspicious matters to the Dexus DBG member to determine if a suspicious matter reporting obligation has arisen;
- (e) submit suspicious matter reports to AUSTRAC on behalf of the Dexus DBG member;
- (f) liaise with AUSTRAC or a person who has issued a notice in accordance with section 49 of the AML/CTF Act for requests for information or documents; and
- (g) implement measures to 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.

**Dexus DBG** means the designated business group established on 1 July 2022 under Chapter 2 of the AML/CTF Rules.

***Dexus DBG member*** means a reporting entity that has elected to become a member of the Dexus DBG in accordance with the requirements under Chapter 2 of the AML/CTF Rules.

***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 persons in accordance with 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 DBG member in respect of the provision of designated services described in items 6, 7, 33, and 35 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 DBG member is exempt from subsections 123(1) and 123(2) of the AML/CTF Act; and
- (2) Dexus Holdings and AMPCOI 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 applies in relation to the disclosure of Suspicious Matter Material:
  - (a) by a Dexus DBG member to Dexus Holdings or AMPCOI in connection with the provision of AML/CTF services; or
  - (b) between Dexus Holdings and AMPCOI in connection with the provision of AML/CTF services.
- (2) A Dexus DBG member must enter into a confidentiality agreement with AMPCOI and Dexus Holdings and provide the AUSTRAC CEO with a copy of the confidentiality agreement within 14 days of the parties signing the confidentiality agreement.
- (3) The confidentiality agreement under subsection 7(2) of this instrument must:
  - (a) be enforceable by injunction or damages;
  - (b) be entered into before any AML/CTF services are provided by AMPCOI or Dexus Holdings to the Dexus DBG member;
  - (c) in the case of AMPCOI, continue in force until AMPCOI ceases to provide AML/CTF services to a Dexus DBG member, and AMPCOI is no longer in possession of Suspicious Matter Material related to customers of a Dexus DBG member; and

- (d) in the case of Dexus Holdings, continue in force until Dexus Holdings ceases to provide the AML/CTF services to a Dexus DBG member, and Dexus Holdings is no longer in possession of Suspicious Matter Material related to customers of a Dexus DBG member.
- (4) A confidentiality agreement between a Dexus DBG member and AMPCOI or 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 DBG member to any person other than:
    - (i) the Dexus DBG member; or
    - (ii) if requested to do so in writing by the Dexus DBG member, AMPCOI; or
    - (iii) if the Dexus 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 not communicate, or make disclosures of, Suspicious Matter Material relating to the customers of the Dexus DBG member to any person other than:
    - (i) the Dexus DBG member; or
    - (ii) if requested to do so in writing by the Dexus DBG member, Dexus Holdings; or
    - (iii) if the Dexus 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.
  - (c) AMPCOI and 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 7(1) of this instrument; and
    - (v) make and retain a record of the undertakings given in compliance with subsection 7(7) of this instrument, in the form set out in Schedule 2.
- (5) Prior to disclosing or communicating Suspicious Matter Material to an employee of Dexus Holdings or of AMPCOI under subsection 7(1) of this instrument, the person making the disclosure or communication must obtain from the recipient of the disclosure or communication a signed confidentiality undertaking in the form set out in Schedule 1.
- (6) A Dexus DBG member must make and retain a record of Suspicious Matter Material disclosed under subsection 7(1) of this instrument.

- (7) A Dexus DBG member must make and retain a record of the undertakings given in compliance with subsection 7(5), in the form set out in Schedule 2.
- (8) A Dexus DBG member must notify the AUSTRAC CEO in writing within 14 days of any event that may affect its compliance with this exemption instrument.

## **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;
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); or
  - b. 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 DBG member in relation to a customer of that Dexus DBG member, provided that in giving effect to that instruction I do not disclose to the customer that:
  - i. the Dexus DBG member is required to submit suspicious matter reports to AUSTRAC under subsection 41(2) of the AML/CTF Act; or
  - 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, person(s) that have issued a notice in accordance with 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).

**Dexus DBG** means the designated business group established on 1 July 2022 under Chapter 2 of the AML/CTF Rules.

**Dexus DBG member** means a reporting entity that has elected to become a member of the Dexus DBG in accordance with the requirements under Chapter 2 of the AML/CTF Rules.



**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 person(s) in accordance with 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 15/2023

Name	Position	Employing entity	Date of undertaking