



Anti-Money Laundering and Counter-Terrorism Financing (Modification—Australian Securities and Investments Commission) Declaration 2024 (No.2)

I, Evan Gallagher, Acting National Manager, Policy Rules and Guidance Branch, make the following declaration as a delegate of the AUSTRAC CEO.

Dated 26 September 2024



Evan Gallagher
Acting National Manager, Policy Rules and Guidance Branch
Australian Transaction Reports and Analysis Centre

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1 Name

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing (Modification—Australian Securities and Investments Commission) Declaration 2024 (No.2)*.

2 Commencement

This instrument commences on the day after it is signed.

3 Cessation

This instrument ceases to have effect 28 days after:

- (1) the Court makes a final judgement or order to resolve the Proceedings; or
 - (2) the Proceedings are dismissed or discontinued;
- whichever occurs first.

4 Authority

This instrument is made under paragraph 248(1)(b) of the Act.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable terms in the Schedule concerned, and any other item in a Schedule to this Declaration has effect according to its terms.

6 Definitions

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

- (a) person.

In this instrument:

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

ASIC means the Australian Securities and Investments Commission.

AUSTRAC means the Australian Transaction Reports and Analysis Centre.

Court means the Federal Court of Australia.

individuals' personal information includes names, dates of birth, home and business addresses, telephone numbers, account details, credit or debit card details, passport numbers, driver licence numbers, email addresses and car registration numbers.

Proceedings means *ASIC v Bekier & Ors* (NSD 1082/2022) commenced in the Court on 12 December 2022.

Protected Material means information or documents which, but for this modification, would be inadmissible under section 124 of the Act, but is limited to:

- (a) individuals' personal information, if:
 - (i) the individual is involved, or alleged to be involved, in a suspicious transaction, including being named in a Suspicious Matter Report;
 - (ii) the individual is purported to be the reporter, or involved in the reporting, of a Suspicious Matter Report, including forming a suspicion;
- (b) Suspicious Matter Reports, including extracts of Suspicious Matter Reports;
- (c) Suspicious Matter Report reference numbers;
- (d) those parts of documents which state whether or not a Suspicious Matter Report was prepared, or given to or received by the AUSTRAC CEO;
- (e) those parts of documents which state whether or not particular information was contained in a Suspicious Matter Report.

Suspicious Matter Report means a report given to the AUSTRAC CEO under subsection 41(2) of the Act.

The Star means The Star Pty Ltd (ABN 25 060 510 410).

7 Modification to Act

The Act applies as if section 124 were modified so that it did not apply to prevent a party to the Proceedings adducing, and the Court admitting into evidence in the Proceedings:

- (a) information already lawfully in the public domain; and
- (b) Protected Material that is subject to a suppression order made by the Court in the Proceedings under section 37AF of the *Federal Court Australia Act 1976* prohibiting the disclosure of the material (by publication or otherwise); or
- (c) Protected Material for the purpose of an application for a suppression order described in paragraph (b).

Note: Unless suppression orders are made, section 124 of the Act will apply on its terms to prevent certain material from being admissible in evidence. This modification is intended to ensure continuity in the protection of certain material currently provided by section 124, recognising that it is entirely a matter for the Court to determine whether suppression orders should be made and, if so, the appropriate terms of any such orders.

Schedule 1 – Repeals

Anti-Money Laundering and Counter-Terrorism Financing (Modification— Australian Securities and Investments Commission) Declaration 2024 (No.1)

1 The whole of the instrument

Repeal the instrument.

Important Notice

1. Under sections 136 and 137 of the Act, it is an offence to provide false or misleading information or documents to the AUSTRAC CEO. 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.
2. The person granted the declaration may request the AUSTRAC CEO to revoke or vary the declaration at any time.
3. Any request to vary or extend this declaration 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.
4. This declaration does not preclude the person from making communications or disclosures that are otherwise permitted by law.