



Anti-Money Laundering and Counter-Terrorism Financing (Exemption— Eltav Capital Pty Ltd) Instrument 2024 (No. 19 of 2024)

I, Daniel Mossop, National Manager, Policy Rules and Guidance, make the following instrument as a delegate of the AUSTRAC CEO.

Dated 30 October 2024

A handwritten signature in blue ink, appearing to read 'D. Mossop', is positioned above the printed name of the signatory.

Daniel Mossop
National Manager, Policy Rules and Guidance
AUSTRAC

Contents

1	Name	1
2	Commencement.....	1
3	Cessation	1
4	Authority	1
5	Definitions.....	1
6	Application.....	2
7	Exempt provisions.....	2
8	Conditions	2

1 Name

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Eltav Capital Pty Ltd) Instrument 2024 (No. 19 of 2024)*.

2 Commencement

This instrument commences on the day after it is signed.

3 Cessation

This instrument ceases to have effect on 31 July 2027.

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) ADI;
- (b) customer;
- (c) designated service;
- (d) loan;
- (e) money.

In this instrument:

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

capital contributions means the contributions made by a partner to the Gadens Partnership, where the contributions are calculated in the same manner for each partner.

Eltav Capital means Eltav Capital Pty Ltd ACN 678 012 345 as trustee for the Eltav Capital Unit Trust.

Eltav Capital Unit Trust means the Eltav Capital Unit Trust ABN 39 237 501 169.

Eltav Investments means Eltav Investments Pty Ltd ACN 005 365 962 as trustee for the Eltav Unit Trust.

Eltav Unit Trust means the Eltav Unit Trust ABN 18 652 146 776.

Gadens Partnership means the partnership named S Apikian & Others ABN 29 991 935 627, trading as Gadens Lawyers.

partner means a natural person who is an equity partner of the Gadens Partnership.

6 Application

- (1) This instrument applies to Eltav Capital in relation to the provision of the designated services described in items 6 and 7 of table 1 in subsection 6(2) of the Act, where the customer of the designated service is a partner.
- (2) This instrument applies to Eltav Capital in relation to the provision of the designated service described in item 31 of table 1 in subsection 6(2) of the Act, where the customer of the designated service is a partner.
- (3) This instrument applies to Eltav Capital in relation to the provision of the designated service described in item 32 of table 1 in subsection 6(2) of the Act, where the customer of the designated service is the Gadens Partnership.
- (4) This instrument applies to Eltav Capital in relation to the provision of the designated service described in item 32 of table 1 in subsection 6(2) of the Act, where the customer of the designated service is an ADI.

7 Exempt provisions

Eltav Capital is exempt from the following provisions of the Act:

- (1) Divisions 2 to 7 of Part 2 (other than section 39);
- (2) Division 5 of Part 3;
- (3) Part 6;
- (4) Divisions 2 to 4 of Part 7 (other than section 93);
- (5) Divisions 2 to 6 of Part 10.

8 Conditions

This instrument is subject to the following conditions:

- (1) This exemption only applies when Eltav Capital provides the designated services specified in subsection 6(1) of this instrument for the purpose of the partner making capital contributions to the Gadens Partnership.
- (2) This exemption only applies when Eltav Capital provides the designated services specified in subsections 6(2) and 6(3) of this instrument for the purpose of disbursing loan proceeds to the Gadens Partnership.
- (3) Eltav Capital may only obtain loan facilities from an ADI.
- (4) Eltav Capital must ensure that loan proceeds are deposited by an ADI directly into an account held by the Gadens Partnership.
- (5) This exemption only applies when Eltav Capital provides the designated services specified in subsection 6(4) of this instrument for the purpose of making payments of interest or fees, or repayments of principal, on a loan for capital contributions.
- (6) Eltav Capital must ensure that all repayments of principal, and payments of interest and fees, that are to be made by Eltav Capital to an ADI are made to the ADI by the Gadens Partnership on behalf of Eltav Capital.

-
- (7) Eltav Capital must be owned by Eltav Investments.
 - (8) Eltav Investments must be controlled by partners of the Gadens Partnership.
 - (9) Eltav Capital must, in writing, notify the AUSTRAC CEO within 14 days of an event that may affect its ability to comply with this instrument.

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. This exemption is specific to, or is based on an assessment of the:
 - information or documents provided by, or on behalf of, the person to AUSTRAC in support of the exemption application; and
 - facts and circumstances relevant to the exemption application, including the nature and type of business activities the person undertakes at the time of the application.
3. 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.
4. The person granted the exemption may request the AUSTRAC CEO to revoke or vary the exemption at any time.
5. 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.
6. This exemption does not preclude the person from making communications or disclosures that are otherwise permitted by law.