



Anti-Money Laundering and Counter-Terrorism Financing (Exemption—AMP Life Limited) Instrument 2020 (No. 2)

I, Kathryn Haigh, National Manager, Legal and Policy Branch, of the Australian Transaction Reports and Analysis Centre (AUSTRAC), make the following instrument as a delegate of the AUSTRAC CEO.

Dated *19 June 2020*

Kathryn Haigh
National Manager, Legal and Policy Branch
AUSTRAC

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1 Name

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing (Exemption—AMP Life Limited) Instrument 2020 (No. 2)*.

2 Commencement

This instrument commences on the day after it is signed.

3 Cessation

This instrument ceases to have effect on:

- (1) 30 June 2023; or
- (2) the day that the AUSTRAC CEO receives notice of the event specified in paragraph 8(6)(b);

whichever occurs first.

4 Authority

This instrument is:

- (1) made under paragraph 248(1)(a) of the Act; and
- (2) 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) anti-money laundering and counter-terrorism financing program;
- (b) customer;
- (c) designated service;
- (d) person;
- (e) reporting entity.

In this instrument:

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

AMP Life means AMP Life Limited ACN 079 300 379.

AMP Services means AMP Services Limited ACN 081 143 786.

Relevant Services means the following services to be provided by AMP Services to AMP Life:

- (a) monitoring AMP Life customers and transactions in relation to the designated services specified in section 6, including undertaking ongoing customer due diligence;

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- (b) escalating matters to AMP Life for review, including those matters that may result in the lodgement of a suspicious matter report by AMP Life in accordance with section 41 of the Act;
 - (c) implementing measures in respect of AMP Life customers as instructed by AMP Life including:
 - (i) measures to mitigate and manage money laundering and terrorism financing risks in relation to those customers; and
 - (ii) enhanced customer due diligence measures.

risk-based systems and controls means the systems and controls that a reporting entity is required to implement as part of an anti-money laundering and counter-terrorism financing program.

Suspicious Matter Material refers to any information, the disclosure of which would engage section 123 of the Act, and includes information and documents requested by authorised persons under section 49 of the Act in relation to a report submitted to the AUSTRAC CEO in accordance with section 41 of the Act.

6 Application

This instrument applies to AMP Life in respect of the provision of designed services described in items 6, 7, 14, 35, 37, 38, 39, 40 and 41 of table 1 in subsection 6(2) of the Act.

7 Exempt provisions

AMP Life is exempt from subsections 123(1)–(3) of the Act.

8 Conditions

This instrument is subject to the following conditions:

- (1) AMP Life must not communicate, or make disclosures of, Suspicious Matter Material to any person other than:
 - (a) the AUSTRAC CEO; or
 - (b) a member of the staff of AUSTRAC; or
 - (c) AMP Services in connection with the Relevant Services;
- (2) AMP Life must enter into a confidentiality agreement (***the Agreement***) with AMP Services and provide the AUSTRAC CEO with a copy of the Agreement within 14 days of both parties signing the Agreement;
- (3) the Agreement must:
 - (a) incorporate the obligations set out in Schedule 1; and
 - (b) be capable of enforcement by injunction or damages; and

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- (c) be entered into before any Relevant Services are provided; and
 - (d) continue in force until:
 - (i) the Relevant Services are no longer provided; and
 - (ii) AMP Services is no longer in possession of Suspicious Matter Material related to the customers of AMP Life;
 - (4) the Agreement may be a stand-alone agreement or form part of the agreement between AMP Life and AMP Services for the provision of the Relevant Services;
 - (5) AMP Life must, in writing, provide the AUSTRAC CEO with updates every six months from the day of commencement that detail the state of completion of the company's risk-based systems and controls;
 - (6) AMP Life must, in writing, notify the AUSTRAC CEO within 14 days of the following events:
 - (a) the completion of the company's risk-based systems and controls;
 - (b) the conditions described subparagraphs 8(3)(d)(i) and (ii) have been satisfied;
 - (c) any event that may affect the ability of AMP Life to comply with this instrument.

Schedule 1—Confidentiality agreement

1 Obligations

- (1) AMP Services must:
 - (a) keep Suspicious Matter Material confidential at all times; and
 - (b) securely store any record of Suspicious Matter Material; and
 - (c) put in place adequate safeguards to protect any personal information contained in Suspicious Matter Material; and
 - (d) within a reasonable time of completion of the Transitional Services Agreement:
 - (i) return any physical copies of documents containing Suspicious Matter Material; and
 - (ii) delete all electronic copies of documents containing Suspicious Matter Material.
- (2) AMP Services must not disclose Suspicious Matter Material, either directly or indirectly, to any person other than:
 - (a) AMP Life; or
 - (b) a lawyer engaged by or on behalf of AMP Life; or
 - (c) the AUSTRAC CEO; or
 - (d) a member of staff of AUSTRAC.
- (3) AMP Services must not disclose to any person other than those persons mentioned in subsection 1(2):
 - (a) that AMP Life formed an applicable suspicion mentioned in subsection 41(1) of the Act; or
 - (b) that AMP Life has communicated information to the AUSTRAC CEO under subsection 41(2) of the Act; or
 - (c) any other information from which the person to whom the information is disclosed could reasonably be expected to infer that:
 - (i) AMP Life had formed the suspicion; or
 - (ii) AMP Life had communicated the information to the AUSTRAC CEO.
- (4) If AMP Life is required to give information, or produce a document, under subsection 49(1) of the Act, AMP Services must not disclose:
 - (a) that AMP Life is or has been required to do so; or

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- (b) that the information has been given or the document has been produced; or
 - (c) any other information from which the person to whom the information is disclosed could reasonably be expected to infer that:
 - (i) AMP Life had been required to give the first-mentioned information or produce the document; or
 - (ii) the first-mentioned information had been given; or
 - (iii) the document had been produced.
- (5) This Schedule does not apply to the disclosure of information by AMP Services if the disclosure is made to a designated agency in accordance with the Act.

2 Interpretation

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

- (a) designated agency;
- (b) personal information.

Suspicious Matter Material refers to any information related to the customers of AMP Life, the disclosure of which would engage section 123 of the Act, and includes information and documents requested by authorised persons under section 49 of the Act in relation to a report submitted to the AUSTRAC CEO in accordance with section 41 of the Act.

Transitional Services Agreement means the agreement between AMP Life and AMP Services under which the Relevant Services are to be provided.

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.