



## **Anti-Money Laundering and Counter-Terrorism Financing Act (Exemption—CBH Grain Pty Ltd) Instrument 2020 (No. 11)**

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I, Jennifer Ermert, Acting National Manager, Legal and Policy Branch, Australian Transaction Reports and Analysis Centre, make the following instrument as a delegate of the AUSTRAC CEO.

Dated 13/10/20

A handwritten signature in black ink, appearing to read 'Jennifer Ermert', with a stylized flourish at the end.

Jennifer Ermert  
Acting National Manager, Legal and Policy Branch  
Australian Transaction Reports and Analysis Centre

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## 1 Name

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing Exemption—CBH Grain Pty Ltd Instrument 2020 (No. 11)*.

## 2 Commencement

This instrument commences on the day after it is signed.

## 3 Authority

This instrument is:

- (1) made under paragraph 248(1)(a) of the Act; and
- (2) subject to the conditions in section 7 of this instrument, as authorised under paragraph 248(2)(b) of the Act.

## 4 Definitions

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

- (a) derivative;
- (b) designated service;
- (c) person.

In this instrument:

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

**CBH Grain** means CBH Grain Pty Ltd (ABN 39 089 394 883, ACN 089 394 883).

**commodity swap** means an agreement that a payout to a party is based upon the reference price of a commodity being traded for a fixed price over a specified period.

**grain** means grains, oil seeds and pulses of all kinds, qualities and varieties including wheat, barley, oats, sorghum, maize and rice.

## 5 Application

This instrument applies to CBH Grain in respect of the provision of designated services covered by item 35 of table 1 in subsection 6(2) of the Act.

## 6 Exempted provisions

CBH Grain is exempt from the following provision of the Act:

- (a) item 35 of Table 1 in subsection 6(2);

## 7 Conditions

This instrument is subject to the following conditions:

- (1) the derivative is a commodity swap product where the terms and conditions are contained in a commodity swap contract;

- (2) the derivative is issued to a grower in any State or Territory of Australia who:
  - (i) in either of the preceding two seasons before entering into the commodity swap contract, has delivered grain in a single delivery title, to Co-operative Bulk Handling Limited or a body comparable to Co-operative Bulk Handling Limited; and
  - (ii) has delivered to the body an aggregate of not less than 600 tonnes of all grain deliveries made in single delivery title in the preceding three seasons before entering into the commodity swap contract; and
  - (iii) has produced the grain delivered and is not solely a deliverer for the purposes of receiving financial proceeds from the delivered grain;
- (3) the underlying commodity of the derivative is grain produced by the grower to whom the derivative is issued;
- (4) the derivative cannot be traded to a third party;
- (5) the derivative will terminate on or before the maturity date specified in the commodity swap contract;
- (6) CBH Grain must notify the AUSTRAC CEO, in writing, of any event that may affect its ability to comply with this instrument within 14 days of such an event occurring.

## **8 Schedules**

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

## **Schedule 1—Repeals**

### *Exemption 12 of 2015*

#### **1 The whole of the instrument**

Repeal the 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 application made under subsection 248(1) of the Act; and
  - facts and circumstances relevant to the 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. 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.