



Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Crown Entities) Instrument 2020 (No. 14)

I, Jennifer Ermert, of the Australian Transaction Reports and Analysis Centre (AUSTRAC), make the following instrument as a delegate of the AUSTRAC CEO.

Dated 17/11/20

A handwritten signature in black ink, appearing to read 'Jennifer Ermert'.

Jennifer Ermert
Acting National Manager, Legal and Policy
AUSTRAC

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1 Name

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Crown Entities) Instrument 2020 (No. 14)*.

2 Commencement

This instrument commences on the day after it is signed.

3 Cessation

This instrument ceases on 30 November 2021.

4 Authority

This instrument is:

- (a) made under sub-paragraph 248(1)(a) of the Act; and
- (b) subject to conditions under sub-paragraph 248(1)(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) person.

In this instrument:

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

Burswood means Burswood Nominees Limited (ACN 078 250 307) as trustee for the Burswood Property Trust.

Corporate Group means a group of 2 or more bodies corporate that are related to each other under section 50 of the *Corporations Act 2001*.

Crown Corporate Group means the corporate group consisting of Burswood, Crown Melbourne, Crown Resorts, Crown Sydney and their related bodies corporate.

Crown Melbourne means Crown Melbourne Limited (ACN 006 973 262).

Crown Resorts means Crown Resorts Limited (ACN 125 709 953).

Crown Sydney means Crown Sydney Gaming Pty Ltd (ACN 166 326 843)

Legal Practitioner means a person who is:

- (a) a legal practitioner (howsoever described) engaged by, or on behalf of, Burswood; or
- (b) employed by a person who is engaged by, or on behalf of, Burswood under paragraph (a);

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- (c) a legal practitioner (howsoever described) engaged by, or on behalf of, Crown Melbourne; or
 - (d) employed by a person who is engaged by, or on behalf of, Crown Melbourne under paragraph (c)
 - (e) a legal practitioner (howsoever described) engaged by, or on behalf of, Crown Sydney; or
 - (f) employed by a person who is engaged by, or on behalf of, Crown Sydney under paragraph (e);
 - (g) a legal practitioner (howsoever described) engaged by, or on behalf of, Crown Resorts Limited; or
 - (h) employed by a person who is engaged by, or on behalf of, Crown Resorts Limited under paragraph (g).

in connection with a matter.

matter means any of the following:

- (a) the AUSTRAC Enforcement Investigation disclosed to the ASX by Crown Resorts Limited on 19 October 2020, and any related requests for information or documents made by AUSTRAC to Burswood, Crown Melbourne or Crown Sydney;
- (b) the Inquiry by the Honourable Patricia Bergin SC under section 143 of the *Casino Control Act 1992* (NSW) established by *Instrument of Appointment* dated 14 August 2019;
- (c) an investigation, review or inquiry in relation to the affairs of a Crown Corporate Group body corporate by:
 - (i) the Victorian Commission for Gambling and Liquor Regulation;
 - (ii) the Gaming and Wagering Commission of Western Australia; or
 - (iii) the Australian Criminal Intelligence Commission.

specified person means:

- (a) Burswood;
- (b) Crown Melbourne;
- (c) a Legal Practitioner specified in (a) – (d) of the definition of Legal Practitioner; or
- (d) an employee or director of Crown Resorts;
- (e) a legal practitioner (howsoever described) engaged by, or on behalf of, Crown Resorts Limited; or
- (f) employed by a person who is engaged by, or on behalf of, Crown Resorts Limited under paragraph (e): or

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- (g) Crown Sydney;
 - (h) a legal practitioner (howsoever described) engaged by, or on behalf of, Crown Sydney; or
 - (i) employed by a person who is engaged by, or on behalf of, Crown Sydney under paragraph (h): or
 - (j) a Third Party Expert.

Suspicious Matter Material means any information relevant to a matter, the disclosure of which would, but for the existence of this instrument, engage subsections 123(1), (2), (3) or (5A) of the Act.

Third Party Expert means:

- (a) a person appointed by Burswood, Crown Melbourne, or a Legal Practitioner to provide expert advice in connection with a matter; or
- (b) an employee or contractor of a person appointed under (a), who provides expert advice in connection with a matter.

6 Application

This instrument applies to communications or the disclosure of Suspicious Matter Material by:

- (a) Burswood;
- (b) Crown Melbourne
- (c) a Legal Practitioner specified in (a) – (d) of the definition of Legal Practitioner;

which are made in connection with a matter to a specified person.

7 Scope of exemption

- (a) Burswood is exempt from subsections 123(1), (2) and (3) of the Act; and
- (b) Crown Melbourne is exempt from subsections 123(1), (2) and (3) of the Act; and
- (c) a Legal Practitioner specified in (a) – (d) of the definition of “Legal Practitioner” is exempt from subsection 123(5A) of the Act.

8 Conditions

This instrument is subject to the following conditions:

- (1) In respect of a proposed communication or disclosure of Suspicious Matter Material:
 - (a) by Burswood, Crown Melbourne, or a Legal Practitioner specified in (a) – (d) of the definition of “Legal Practitioner”, to an individual

falling under paragraphs (d), (e), (f), (g), (h), (i) or (j) of the definition of “specified person”; or

- (b) by an individual falling under paragraph (d), (e), (f), (g), (h), (i) or (j) of the definition of “specified person” to another individual falling under paragraph (d), (e), (f), (g), (h), (i) or (j) of the definition of “specified person”;

each proposed recipient of the Suspicious Matter Material must sign a confidentiality undertaking in the form set out in Schedule 2 before the first communication or disclosure may be made; and

Note: A person is not required to sign a confidentiality undertaking for each subsequent communication or disclosure of Suspicious Matter Material.

- (2) Each specified person will maintain a list in the form of the confidentiality table set out in Schedule 1 of all individuals falling under paragraphs (d), (e), (f), (g), (h), (i) or (j) of the definition of “specified person” who they communicate or disclose Suspicious Matter Material to, and will:
 - (a) update their list as soon as is practicable after each communication or disclosure of Suspicious Matter Material to an additional person; and
 - (b) send their list to AUSTRAC (exemptions@austrac.gov.au) within 14 days after the communication or disclosure is made; and
- (3) Each specified person falling under paragraphs (d), (e), (f), (g), (h), (i) or (j) of the definition of “specified person” will take all reasonable steps after the expiry of this Instrument to:
 - (a) obtain and return to Burswood or Crown Melbourne as applicable, all physical copies of Suspicious Matter Material held by them; and
 - (b) delete all electronic copies of Suspicious Matter Material in their possession (actual or constructive); and
- (4) Each specified person will take all reasonable steps to ensure that Suspicious Matter Material is not disclosed, or caused to be disclosed, outside of Australia; and
- (5) Each specified person will notify the AUSTRAC CEO in writing within 14 days of any event that contravenes, or may affect their ability to comply with, this instrument.

Schedule 1—Confidentiality Table

Name	Position	Address	Date that name was provided to AUSTRAC

Schedule 2—Confidentiality Undertaking

I, _____,

of _____

undertake to AUSTRAC to:

- (1) keep Suspicious Matter Material disclosed to me confidential at all times; and
- (2) not make public or disclose, and not cause to be made public or disclosed, Suspicious Matter Material either directly or indirectly to any person unless the disclosure is in accordance with the terms of this undertaking; and
- (3) securely store any record, including copies, of any Suspicious Matter Material disclosed to me or which I otherwise have access to; and
- (4) only disclose Suspicious Matter Material to:
 - (a) an employee or director of Burswood; or
 - (b) a Legal Practitioner engaged by, or on behalf of, Burswood; or
 - (c) an employee or director of Crown Melbourne; or
 - (d) a Legal Practitioner engaged by, or on behalf of, Crown Melbourne; or
 - (e) an employee or director of Crown Sydney; or
 - (f) a Legal Practitioner engaged by, or on behalf of, Crown Sydney; or
 - (g) an employee or director of Crown Resorts; or
 - (h) a Legal Practitioner engaged by, or on behalf of, Crown Resorts; or
 - (i) a Third Party Expert;in connection with a matter; and
- (5) after the conclusion of the matter, return any physical copies of documents containing Suspicious Matter Material to Burswood or Crown Melbourne as applicable, immediately upon request by Burswood, Crown Melbourne or a Legal Practitioner engaged by, or on behalf of, Burswood or Crown Melbourne as applicable in connection with the matter; and
- (6) after the conclusion of the matter, delete all electronic copies of documents containing Suspicious Matter Material immediately upon request by Burswood, Crown Melbourne or a Legal Practitioner engaged by, or on behalf of, Burswood or Crown Melbourne as applicable in connection with the matter, except in respect of electronic copies of documents containing Suspicious Matter Material that are stored on a back-up server for security and data recovery purposes that are not readily accessible.

For the avoidance of doubt, this undertaking does not preclude me from making communications or disclosures that are otherwise permitted by law.

In this undertaking:

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

Burswood means Burswood Nominees Limited (ACN 078 250 307) as trustee for the Burswood Property Trust.

Corporate Group means a group of 2 or more bodies corporate that are related to each other under section 50 of the *Corporations Act 2001*.

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Crown Resorts means Crown Resorts Limited (ACN 125 709 953).

Crown Sydney means Crown Sydney Gaming Pty Ltd (ACN 166 326 843)

Legal Practitioner means a person who is:

- (a) a legal practitioner (howsoever described) engaged by, or on behalf of, Burswood; or
- (b) employed by a person who is engaged by, or on behalf of, Burswood under paragraph (a);
- (c) a legal practitioner (howsoever described) engaged by, or on behalf of, Crown Melbourne; or
- (d) employed by a person who is engaged by, or on behalf of, Crown Melbourne under paragraph (c)
- (e) a legal practitioner (howsoever described) engaged by, or on behalf of, Crown Sydney; or
- (f) employed by a person who is engaged by, or on behalf of, Crown Sydney under paragraph (e);
- (g) a legal practitioner (howsoever described) engaged by, or on behalf of, Crown Resorts Limited; or
- (h) employed by a person who is engaged by, or on behalf of, Crown Resorts Limited under paragraph (g).

in connection with a matter.

matter means any of the following:

- (a) the AUSTRAC Enforcement Investigation disclosed to the ASX by Crown Resorts Limited on 19 October 2020, and any related requests for information or documents made by AUSTRAC to Burswood, Crown Melbourne or Crown Sydney;
- (b) the Inquiry by the Honourable Patricia Bergin SC under section 143 of the *Casino Control Act 1992* (NSW) established by *Instrument of Appointment* dated 14 August 2019;
- (c) an investigation, review or inquiry in relation to the affairs of a Crown Corporate Group body corporate by:

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- (i) the Victorian Commission for Gambling and Liquor Regulation;
 - (ii) the Gaming and Wagering Commission of Western Australia; or
 - (iii) the Australian Criminal Intelligence Commission.

specified person means:

- (a) Burswood;
- (b) Crown Melbourne;
- (c) a Legal Practitioner specified in (a) – (d) of the definition of Legal Practitioner; or
- (d) an employee or director of Crown Resorts;
- (e) a legal practitioner (howsoever described) engaged by, or on behalf of, Crown Resorts Limited; or
- (f) employed by a person who is engaged by, or on behalf of, Crown Resorts Limited under paragraph (e): or
- (g) Crown Sydney;
- (h) a legal practitioner (howsoever described) engaged by, or on behalf of, Crown Sydney; or
- (i) employed by a person who is engaged by, or on behalf of, Crown Sydney under paragraph (h): or
- (j) a Third Party Expert.

Suspicious Matter Material means any information relevant to a matter, the disclosure of which would, but for the existence of this instrument, engage subsections 123(1), (2), (3) or (5A) of the Act.

Third Party Expert means:

- (a) a person appointed by Burswood, Crown Melbourne, or a Legal Practitioner to provide expert advice in connection with a matter; or
- (b) an employee or contractor of a person appointed under (a), who provides expert advice in connection with a matter.

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.